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IMMIGRATION-RELATED ISSUES IN THE NORTH AMERICAN FREE TRADE AGREEMENT

HEARING

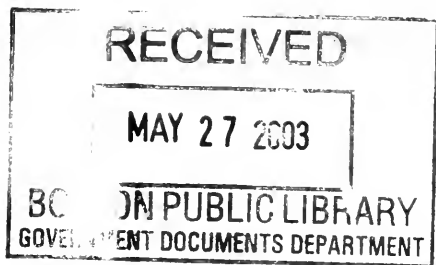
BEFORE THE
SUBCOMMITTEE ON INTERNATIONAL LAW,
IMMIGRATION, AND REFUGEES
OF THE
COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRD CONGRESS

FIRST SESSION

NOVEMBER 3, 1993

Serial No. 18



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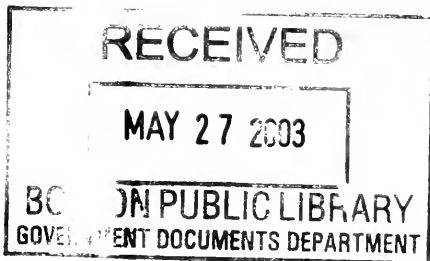
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in the North American Free

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IMMIGRATION-RELATED ISSUES IN THE NORTH AMERICAN FREE TRADE AGREEMENT

WEDNESDAY, NOVEMBER 3, 1993

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON INTERNATIONAL LAW,
IMMIGRATION, AND REFUGEES,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The subcommittee met, pursuant to notice, at 1:07 p.m., in room 2237, Rayburn House Office Building, Hon. Romano L. Mazzoli (chairman of the subcommittee) presiding.

Present: Representatives Romano L. Mazzoli, Xavier Becerra, Elton Gallegly, and Charles T. Canady.

Also present: Representative Hamilton Fish, Jr.

Staff present: Eugene Pugliese, counsel; Leslie L. Megyeri, assistant counsel; Kevin Anderson, assistant counsel; Lizzie M. Daniels, clerk; and Peter J. Levinson, minority counsel.

OPENING STATEMENT OF CHAIRMAN MAZZOLI

Mr. MAZZOLI. The subcommittee will come to order.

Let me indicate to our first panel and the other witnesses who may be in the room, we appreciate your cooperation and we apologize for having originally designated 10 o'clock this morning, but we had a caucus which interrupted the opportunity to go forward at that point. So we thank you for your patience.

I would like to make an opening statement. Today we are holding an oversight hearing on the immigration-related issues arising from the North American Free Trade Agreement or the NAFTA. We will be looking at, among other things, four areas of concern to this subcommittee and to its Chair.

First, the probable impact of the NAFTA on illegal immigration from Mexico to the United States. Second, the border management and control, particularly in the short term during which period all experts seem to agree that illegal immigration will increase or, at the very least, the pressures to illegally enter will increase putting concomitant pressures on our border.

Third, the implementing language of the NAFTA's immigration provisions relating to temporary entry for business persons. Fourth, the extent to which congressional support for NAFTA should be conditioned upon the Mexican Government's commitment to cooperating with the United States to control illegal immigration. Why did the United States and its negotiators not add immigration conditions to the NAFTA, or a side bar agreement as were concluded on worker rights and environment?

The principal purpose of the NAFTA is to reduce trading barriers between the United States or among the United States, Mexico, and Canada, and the aim of the agreement essentially is to promote employment and economic growth within all of these three countries. Everyone supports these goals, however, I for my part am sorry that no linkage was made between trade and migration, and I think there is a clear linkage.

References are made repeatedly throughout the agreement to "trade and goods and services." I feel that services does include people and not just in that limited degree to which chapter 16 applies to temporary entry for business persons. Chapter 16 seems to be the only recognition in the agreement of the migration of labor and families, which inevitably accompanies trade in goods and services.

Now, this is an oversight and not a legislative hearing. The panel has no chance to add legislative language to the agreement at this point. However, I will address specific questions to the administration witnesses and to other witnesses regarding the relationship, if any, which the NAFTA has in joint efforts with Canada and particularly with Mexico concerning the control of illegal immigration. I think this is very pertinent because several points in the testimony to be offered today by various witnesses, mentions are made that NAFTA may very well be the template for future agreements with other Latin American countries, so what is in NAFTA with regard to migration is obviously important for any future agreements.

I would be also interested and will try to secure some information on how long it will take the NAFTA to create the jobs in Mexico, which everyone seems to think is going to reduce the push factor and reduce illegal entry in the long run.

I am unpersuaded by the arguments made by the President that without NAFTA, illegal immigration will increase. On October 20, President Clinton stated something to the effect that if you want to have the immigration problem eased, you vote for NAFTA, not against it. Mr. Katz, among others, today says that in his testimony if NAFTA does not pass, it is likely to cause large increases in illegal migration to the United States. Fairly apocalyptic statements and I am not sure they are founded, and I would like to find out what is really the case.

Obviously the case is certainly that we would not have illegal entry if we control our borders. I was interested in the article that appeared in the Washington Post November 1 of this week detailing the amazing and sudden dropoff of illegal entry of the Chinese, and it is done because the country of China is cooperating to control illegal immigration according to United States officials because Chinese laws are being broken by the smugglers and the exodus makes China look bad.

So I think it is clear that it could be done which are not now being done by Mexico, and so we seem to be merely in a situation in which we need their help to control the syndicates and the smugglers, but the question is are we getting it, and in what timetable? There is a backlash around the country concerning even legal immigration, which is not the problem, and it stems from concerns and frustrations being built up about illegal immigration.

I am concerned that every effort be made by all of us to assure that the NAFTA will not contribute further to an increase in illegal immigration, further adding to the frustrations concerning legal entry, the legal programs, including the program of asylum, which we had a hearing on just the other day. It is certainly one thing for the administration to say that it doesn't want to explicitly link the NAFTA with migration matters. But certainly they are connected.

And I am not sure that they are developed as fully as they could have been in the accord which will be subjected to a vote on November 17. Having said this, I am looking forward to the testimony of our witnesses on these issues.

The gentleman from Florida.

Mr. CANADY. Thank you, Mr. Chairman. I want to thank you for calling this hearing on this issue.

We have heard a lot about this issue in connection with the NAFTA. And like the discussion of many other issues related to the North American Free Trade Agreement, the public discussion has tended to generate more heat than light.

I find that in the discussion of NAFTA, many things are asserted—and when you go behind the assertion, you find that there is not much more than speculation. I am hopeful that today's hearing will help us get some facts and will generate more light than heat.

I would add, and I believe this is really in line with the comments that you have made, Mr. Chairman, that I am convinced that we will continue to have serious problems with illegal immigration, both from Mexico and from other parts of the world, until we take steps to develop a more effective mechanism to ensure that illegal aliens cannot obtain employment in the United States.

Until that issue is addressed, regardless of whether the NAFTA is adopted or not, I don't think we are going to see anything approaching a solution to the illegal immigration problems that we face in this country. So, in that context, I look forward to the testimony from the first panel and the other people who are here to testify today.

Thank you.

Mr. MAZZOLI. I thank the gentleman from Florida. As he is aware, I have introduced a measure which I think will strengthen employer sanctions and make it much more effective.

The gentleman from California.

Mr. BECERRA. Thank you, Mr. Chairman. And again thank you for hosting these types of hearings on issues as important as NAFTA.

I wish that we could have done this earlier. It would have been good for the administration and the other two countries to have considered immigration as part of the actual agreement. We should not just talk about the effects of NAFTA on immigration, but immigration should have been considered a part of any NAFTA.

But given that it was not, I am very interested to hear from the witnesses. I think we have a number of people who can talk with a great deal of knowledge about immigration, and I am interested in hearing their thoughts, and rather than saying any more, I would welcome all the witnesses and look forward to the testimony.

Mr. MAZZOLI. I appreciate it very much. Let me get the last of my finicky routine done here to state that not one of the testimonies that you are about to deliver were delivered to the subcommittee on time. That is a consistent problem. We have a 48-hour rule.

It doesn't help us in preparing our questions when the testimonies come in late.

But anyway, the testimony has been received. It wasn't received in time to really examine it as carefully as I wish I could have, but it is here. We call our first panel: Ambassador Rufus Yerxa, Deputy U.S. Trade Representative, Office of the U.S. Trade Representative; Ms. Doris Meissner, the Commissioner of the Immigration and Naturalization Service; Donna Hrinak, the Deputy Assistant Secretary for Mexico and the Caribbean at the U.S. Department of State; and Mr. Lawrence Katz, the Chief Economist of the Department of Labor.

Mr. Ambassador.

STATEMENT OF RUFUS YERXA, DEPUTY U.S. TRADE REPRESENTATIVE, OFFICE OF THE U.S. TRADE REPRESENTATIVE

Mr. YERXA. Thank you, Mr. Chairman, and I want to thank the members of the committee.

My introductory remarks will be relatively brief, Mr. Chairman, and I do not intend to spend a great deal of time talking about the implications of NAFTA with respect to immigration, because that really is not my particular expertise as an official of the U.S. Trade Representative.

I would like to provide some overview of NAFTA as an agreement for the United States, its economic effects, and why the administration believes that this is a good solid agreement. You have other witnesses here of good credibility who can address your specific interests and concerns about immigration.

But let me, if I might, begin with some general observations about the NAFTA itself and why the President and the administration believe that this is going to be a good, strong, economic, and social arrangement for the United States in our relations in North America.

First of all, I would want to stress that there is no question that we are living now ever more in an extremely competitive world economy. One in which globalization of our industries and our products and of our companies and our markets is a fact of life, and nothing that we can do will change those facts.

What we have to do as a country is to determine how we are going to compete with other countries and how we are going to create the kind of dynamic domestic economy that can assure us good jobs in the future and that can assure us consistent economic growth and competitive industries.

We face the fact we are no longer a self-contained economy in the world. And if you look at the trends in U.S. economic growth, the fact of the matter is that over the last several years exports have been the most important component in economic growth and the purpose of trade agreements is to open markets to U.S. products.

Now, the debate about NAFTA is essentially one about whether this agreement is going to create jobs, is going to create opportunities for us to export or is going to create greater import competition that is going to cost us jobs.

Let me tell you why we are convinced that the overall effect of this agreement is to create more jobs in this country, better jobs, of greater economic growth and greater exports. The basic fact of this agreement is a very simple one and it is this: That in general the U.S. economy is already open to foreign products in virtually every major sector of our economy.

Those who want to import into the United States, those who want to locate manufacturing or production abroad and bring it to the United States can do so. And the real problem that most people are complaining about is this status quo situation. The fact of the matter is what NAFTA does is very simple. It opens a foreign market to our products with minimal changes in the U.S. trade regime.

And that is an extremely important fact to remember in addressing the concerns which are being raised because if you look at the unlevel playing field our industries face in every major sector of our economy, there is no question but what the NAFTA does is give these industries new opportunities to export, new opportunities to compete, and to have a larger market for that competition.

Now, one of the myths that I think has to be addressed here is how do we compete with a low-wage economy like Mexico? The facts of the matter are clear. Where the United States has had open markets abroad, we have competed very successfully with low-wage economies.

In fact, Mr. Chairman, many of our best markets and largest trade surpluses are with low-wage economies. We do have some very serious trade problems, and, in fact, many of our biggest deficits are with high-wage economies including with Germany, the highest wage economy in the world.

So I think it is important to attack the basic fundamental myth that we cannot compete with lower wage economies. The facts are that the American economy is so productive, its workers are so productive, their output per man-hour is such and our technology is such that we can compete.

The other myth that I think has to be addressed is that we don't gain anything by access to Mexico's market. The fact is that it is our third largest export market overall and second largest market for manufactured products and one of the fastest growing markets in the world for everything from automobiles to telecommunications.

And finally, the myth that in a trade agreement of this nature, if someone wins, someone must lose. That is the basic argument that is being made by opponents of this agreement that if we are going to create greater economic growth and better circumstances in Mexico, we are going to cost Americans jobs.

Mr. Chairman, that simply is not how international trade works. That is as much a myth as saying that people in New York will be better off if people in New Jersey are having an economic recession. Growth in one country creates circumstances for growth in another country.

And the question is whether the markets are open. And the more you look at the criticisms of this agreement from its primary opponents, the more you come to the conclusion that the complaints, the prevailing complaints are about the status quo, that is the unfair situation that we face today.

Jobs leaving the United States because the American market is open and foreign markets are not open to us. And this agreement is a landmark achievement in obtaining real access to another country. If many of our major competitors, whether it was Japan or other countries in Asia or the European Community, had granted us this kind of balanced reciprocal access through trade agreements, we wouldn't have many of the trade problems we have today.

And for years, the Congress as well as successive administrations have emphasized that Americans can compete in the world if we have access to foreign markets. That is the essence of this agreement, Mr. Chairman.

Now, as to its effects on everything from migration to labor conditions to immigration, I think obviously there will be debate on all sides of these issues. I would take the position that in the final analysis, having better economic growth, having the conditions for greater openness and peaceful commerce between countries is going to create a much better climate for everything from the condition of workers to the improvement of the environment.

We can achieve a lot more in those areas through the kind of cooperation and the kind of synergy that is produced by the NAFTA, and by these side agreements, than we will ever produce by suggesting we maintain the status quo. If we seek to keep barriers up where barriers exist, and fail to open up foreign markets and fail to open up the world to greater trade, I think we would be making a big mistake.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Yerxa follows:]

TESTIMONY OF AMBASSADOR RUFUS YERXA
Deputy United States Trade Representative

before the
Subcommittee on International Law, Immigration and Refugees
of the House Judiciary Committee
November 3, 1993

THE ADMINISTRATION'S CASE FOR NAFTA

Mr. Chairman, members of the Committee, I am pleased to appear before you today to set forth the Clinton Administration's case for the North American Free Trade Agreement (NAFTA), with the recently negotiated supplemental agreements.

This fall, members of the administration have appeared before Committees in the House and the Senate. We appreciate these opportunities to present the Administration's case on why the approval of NAFTA is central to our national interests.

The question we must ask ourselves as we consider the NAFTA is whether the United States will be significantly better off with the NAFTA and its side agreements than by rejecting them. We believe that the answer to that question is a clear and resounding yes.

The case for NAFTA comes down to two compelling points: NAFTA will increase economic growth and jobs in the United States, and NAFTA will help us resolve problems that trouble Americans in our current relationship with Mexico.

There is a related point that is missed too often by the opponents of this agreement: rejecting the NAFTA and the supplemental agreements will not solve the problems that trouble us. This is especially true, Mr. Chairman, when it comes to immigration. The NAFTA will help us solve these problems in a way that benefits our country and our continent.

NAFTA and Our Trading Goals

Against a background of intense debate, a mountain of misinformation, and considerable hyperbole, it is important to remember that what NAFTA really does is some very simple things which Americans have long sought in our trading relationships. The NAFTA levels a playing field that is now tilted against us. Over time it will eliminate tariffs and non-tariff barriers among the United States, Mexico and Canada. Mexico and Canada will give our products preferential treatment compared to our competitors in Europe and in Asia and end the failed maquiladora programs. In addition NAFTA and its side agreements will address long-neglected environmental and labor issues.

The NAFTA creates the world's largest market: 370 million

people and \$6.5 trillion of production. That makes us stronger here at home, and better able to compete with Europe and Asia.

At the same time, NAFTA has strong rules to stop unfair treatment of American products and American investors. It requires Mexico to change laws that have forced our companies to move production to Mexico in order to sell their products in Mexico. It requires protection from piracy of our films, our books and our technology. The supplemental agreements will require stronger enforcement of laws protecting labor and the environment, and will help us work together with Canada and Mexico to improve deficient laws.

NAFTA and the Administration's Economic Strategy

The NAFTA package is a vital element of the President's overall economic strategy.

President Clinton and this Administration are committed to building the strongest, most competitive economy in the world. By doing so, we will expand job opportunities for United States workers and for their children who will be entering the work force.

We are finally facing the fact that our economy, as well as the global economy, is changing. Technology has revolutionized the world. Our economy is no longer self-contained, and the U.S. economy no longer dominates the world's economy. We compete in a global economy, where capital and technology are mobile. These trends are here to stay. The question is not whether we adapt to them, but how.

Our economic strategy -- health care reform, reducing the deficit, increasing public and private investment, reinventing government, welfare reform, changes in education, worker training, investing in technology -- all work in pursuit of the same objective: to build a more secure productive and competitive economy.

Our trade policy, including NAFTA, is an essential part of that strategy. The companies, farmers and workers of the United States are world-class competitors. We lead the world in everything from airplanes and computers, to wheat and soybeans. We have regained our position as the world's leading exporter. Last year U.S. trade in goods and services exceeded one trillion dollars.

Opening up new markets is the key to new job creation and economic growth. NAFTA presents an opportunity to compete and win in a vast new market: 90 million people in Mexico, in a fast growing area, hungry for U.S. goods. It is also a step to an even larger market -- 400 million people throughout Central and South America and the Caribbean.

The United States seeks to open markets everywhere. We seek to trade and to compete worldwide. We have nearly \$200 billion each year in two-way trade with the countries of the European Community; through APEC, we seek expanded trade with the rapidly growing nations of Asia. Japan is a major market for U.S. products, despite the major and persistent barriers that we are committed to breaking down. Completing the Uruguay Round -- taking down tariff and non-tariff barriers worldwide, and writing new rules for the international trading system -- remains a top priority for us.

But it is no accident that Canada is our number one trading partner, despite having a population of only 27 million, and Mexico has become our third leading trading partner, despite its historic policy of maintaining a closed economy. Shared borders and geographical proximity do matter, even in this globalized economy.

And we have a natural advantage, and a great opportunity, to expand trade and investment with Mexico, and then with the rest of Central and Latin America and the Caribbean. Many of those countries have chosen, in recent years, to cast off the controls on their economies and the shackles on their political systems.

Tariffs have fallen and non-tariff barriers have been reduced. Since 1989, U.S. exports to Latin America and the Caribbean increased over 50 percent and are growing at over twice the rate of U.S. exports to the rest of the world, making this region our second fastest growing market. They have become a growing market for U.S. products; 43% of Latin American imports come from the United States.

Chile, Venezuela, Argentina and many other nations are intently following the NAFTA debate. The possibility of NAFTA accession provides an incentive for further trade and investment liberalization in the region. The decision to reject NAFTA would have profound negative economic and political consequences throughout the hemisphere and for the prospects for the expansion of trade in the global trading system.

The NAFTA is an instrument for helping the United States, Mexico and Canada cooperate in meeting Asian and European competition. It will help us produce more globally competitive products.

In the new global economy, there are challenges and risks, as well as great opportunities. I am confident that American workers are up to the challenge of competing -- and will reap the benefits. One reason I am so confident is that we are not going into NAFTA blindly. We do not have to speculate about the results from this change; we have gone through a six year trial run.

Job Growth and Trade with Mexico

Mexico, recognizing that its economic policies had been disastrous, has begun to lower trade and investment barriers. The results have been dramatic for the United States:

- From 1987 to 1992, we transformed a \$5.7 billion trade deficit with Mexico into a \$5.4 billion trade surplus.
- U.S. exports to Mexico increased from \$12.4 billion in 1986 to \$40.6 billion in 1992, with increases coming across the board from computers to agriculture.
- Mexico has become our third leading export market, and our second leading market for manufactured exports (\$34.5 billion) and our third largest market for agricultural products (\$3.7 billion).
- 84% of this growth in exports has been exports for Mexican consumption.
- 400,000 U.S. jobs related to exports to Mexico were created.
- 70% of all dollars spent by Mexicans on imports are spent on U.S. products.

The success of the past seven years has occurred even though Mexican trade barriers remain far higher than ours. Bringing down the remaining barriers, which is what NAFTA does, ensures continued growth of U.S. exports to Mexico, which have been such a bright spot in our economic picture for the past seven years.

Virtually every responsible study that has looked at the labor issue concludes that NAFTA will produce a net gain in jobs or an increase in real wages in the United States. The Administration believes that with NAFTA, an additional 200,000 jobs related to exports will be created in the U.S. by 1995. While the studies acknowledge that there will be some jobs lost in certain sectors, overall, job gains will significantly exceed job losses. The studies also agree that the jobs lost will be relatively small. This is true because Mexico's economy is only one-twentieth the size of ours, and our tariff and non-tariff barriers are already low. Mexico's productive assets, capacity and infrastructure are far below levels and standards in the United States or even Canada.

NAFTA and Our Current Trade Problems

Ironically, most of the concerns you hear in America about NAFTA are in reality problems that exist right now -- problems that the NAFTA will address. For example, in the trade area, despite

Mexico's recent liberalization and despite the enormous gains we have enjoyed in our bilateral trade in recent years, the playing field is still tilted against us. NAFTA will level the playing field for U.S. workers.

For one, it will eliminate Mexican performance requirements and other unfair rules in the auto sector -- requirements that imports of vehicles into Mexico must be off-set two-to-one by exports of Mexican-made cars. It will eliminate the requirement for Mexican importers to secure a government permit each time they want to buy U.S. potatoes. Mexico has the right under the GATT to raise its tariffs up to 50%. If it chooses to do so, U.S. exports would not be affected because of the protections we gain under NAFTA.

Historically, Mexico has been a closed, state-controlled economy. To shield its industry and agriculture from competition, it relied on tariffs as high as 100% and a full range of non-tariff barriers, including domestic content requirements, restrictions on investment, performance requirements to keep out exports, and import licensing requirements which allowed the central government to dictate the levels of Mexico's agricultural imports. As a result, protected from competition from imports, Mexican producers were inefficient, and the Mexican economy was characterized by widespread poverty. Mexico's protectionist regime did not serve the interests of Mexico's people.

Mexico remained largely closed to U.S. business until U.S. and Mexican law combined to produce the maquiladora program. But this program hardly resulted in an open Mexican market.

The maquiladora program created trade preferences and incentives for companies to locate assembly plants in Mexico to produce for the U.S. market. It gave products assembled in Mexico these preferences while at the same time maintaining all of Mexico's trade and investment barriers. The program thus created an artificial "export platform" in Mexico, with products assembled in maquiladora plants being required to be exported to the U.S. By 1992, there were over 2,000 maquiladora factories operating in Mexico, the overwhelming number of which were established by U.S. and Mexican corporations, employing more than 400,000 Mexican workers.

In addition, Mexico's high import barriers and Mexican rules requiring firms selling in the Mexican market to open factories in Mexico have made it difficult if not impossible for many of our companies to sell products made in the U.S. in Mexico. Non-tariff barriers -- licensing, citizenship requirements, and a host of other regulations were especially hard on small businesses in the U.S., which do not have the resources to navigate through the bureaucratic maze in Mexico.

The NAFTA will transform the situation by opening Mexico's market and eliminating the distortions created by the maquiladora program. Under NAFTA, the maquiladora program is effectively eliminated, along with import protections, and existing factories will be permitted to sell in the Mexican market without restriction.

Much of the opposition to NAFTA reflects justifiable concern about the policies of the past that have disadvantaged U.S. workers. Despite Mexican progress in voluntarily opening markets, Mexican tariffs remain, on the average, 2.5 times higher than ours. By contrast, over 50% of our imports from Mexico already enter duty-free. Our average tariff on imports is only 4%.

Mexico currently has no obligation to continue recent market-opening moves on which thousands of U.S. jobs already depend. NAFTA locks in current access and expands on it.

NAFTA will require relatively few changes on our part -- while requiring Mexico to eliminate its protectionism and overregulation. NAFTA will eliminate especially burdensome tariffs and non-tariff barriers in a number of key sectors where the U.S. is competitive vis-a-vis Mexico, such as autos and agriculture.

NAFTA lets U.S. workers compete on a level playing field with fair rules. And we are confident, in those circumstances, U.S. workers will succeed.

NAFTA will give U.S. exporters a significant preference in the rapidly expanding Mexican market over Japanese, European, and other foreign suppliers. As I have already noted, Mexico's tariffs average 10 percent. Countries other than the United States (and Canada) will continue to face Mexican duties. In addition, Mexico's current import licensing requirements on agricultural imports will disappear for the United States (and for Canada, for most products) when the NAFTA goes into effect. However, a license may still be required to bring in covered products from all other countries.

Major Features of NAFTA

Reduction of Mexican Tariffs: Under NAFTA, half of all U.S. exports to Mexico become eligible for zero Mexican tariffs when NAFTA takes effect on January 1, 1994. Those exports which will be tariff-free include some of our most competitive products, such as semiconductors and computers, machine tools, aerospace equipment, telecommunications equipment, electronic equipment, and medical devices. Within the first five years after NAFTA's implementation, two-thirds of U.S. industrial exports will enter Mexico duty-free. That makes U.S. products more competitive than those of our rivals.

Removing Mexican non-tariff barriers. NAFTA reduces or

eliminates numerous Mexican non-tariff barriers which today require U.S. companies to invest in Mexico or manufacture in Mexico in order to supply the Mexican market. For example, NAFTA will eliminate the requirements that force U.S. companies to purchase Mexican goods instead of U.S.-made equipment and components. Moreover, NAFTA abolishes the requirements that force our companies to export their production, usually to the United States, instead of selling directly into the Mexican market. Requirements that make U.S. companies produce in Mexico in order to sell there will also be phased out.

In addition, NAFTA includes important benefits for other key U.S. sectors:

Opening up Trade in Services. NAFTA will open new markets for the delivery of U.S. services to Mexico and Canada, where service companies are already large and growing. NAFTA will allow U.S. service firms to provide their services directly from the United States on a non-discriminatory basis, with any exceptions clearly spelled out. Furthermore, U.S. service companies will benefit from the right to establish, if they so choose, in Mexico or Canada. NAFTA opens the Mexican market to U.S. bus and trucking firms, financial service providers, and insurance and enhanced telecommunications companies, among others.

Protecting U.S. copyrights, patents and trademarks. NAFTA will ensure a high level of protection under Mexican law for U.S. owners of patents, copyrights, trademarks, trade secrets, and integrated circuit designs, including strong safeguards for computer programs, pharmaceutical inventions and sound recordings. NAFTA obligates both Mexico and Canada to enforce intellectual property rights against infringement, both internally and at the border. By enhancing protection of U.S. owners of technology, and of book, film and recording rights, NAFTA will increase trade and diminish losses from counterfeiting and piracy.

U.S. motion pictures, music and sound recordings, software, book publishing and other creative industries lead the world, and are crucial to the high-wage economy that we intend to build. The copyright industries are one of the largest and fastest growing segments of the U.S. economy, employing 5% of the U.S. work force, with exports, valued conservatively, of about \$34 billion in 1990.

The Benefit to Small Business. I have noted the statements of several sectors citing the benefits which will result from NAFTA; that sentiment is widely held in the business community, by businesses large and small. Indeed, small businesses stand to be among the major beneficiaries of NAFTA. Small businesses are often less able to invest the time and resources to wrestle with the tariff and licensing requirements which presently block the way to the Mexican market. With tariffs reduced or eliminated, and non-tariff barriers coming down, U.S. small business, which makes

up a growing share of U.S. exports, will be able to sell their American-made products into the Mexican market.

NAFTA and Immigration Issues

Mr. Chairman, I welcome the opportunity to discuss the effect of NAFTA on immigration here today. Obviously, illegal immigration is a very troubling issue for the nation. Yet it goes to the very core of how we are better off with NAFTA than without. NAFTA does not explicitly address the issue of illegal immigration, but in the long run, it is one of our best bets to reducing illegal immigration.

Let me first clear up what I think is a misunderstanding about NAFTA that some people have. NAFTA does not provide for open borders or freedom of movement across the borders of the United States, Mexico and Canada. Passing into Mexico or Canada will not be like passing from Oklahoma into Texas. It will not even be like passing from France into Belgium.

The only immigration provision in the agreement is Chapter 16: Temporary Entry of Business Persons. This chapter provides for the "temporary entry" of business visitors, investors, intracompany transferees and certain professionals from Canada and Mexico on a reciprocal basis.

Because Chapter Sixteen is based on existing U.S. non-immigrant visa law, and its provisions are very similar to those presently in effect under the U.S.-Canada Free-Trade Agreement, the United States retains the right to maintain border security and visa programs, as well as to protect the domestic labor force and permanent employment.

The question we should ask ourselves is this: are we better off with NAFTA when it comes to the immigration problem, or without? The answer, clearly, is we are better off with NAFTA.

Ultimately, the answer to the problem of illegal immigration from Mexico is sustained robust economic growth in Mexico. NAFTA will promote rapid economic growth. According to a review of studies by the International Trade Commission, NAFTA will increase economic activity by up to 11 percent by the end of the transition period, 2008, resulting in gains to Mexican employment and average real wages.

Well before the NAFTA, the Commission for the Study of International Migration and Cooperative Economic Development, created by the Congress in 1986 and chaired, I should note, by Ambassador Diego Asencio, who is here today, concluded that the development and availability of new and better jobs in Mexico, through measures including a free trade pact, was the only way to diminish migratory pressures over time. In addition, a study by the

University of California in 1991 reported that the combined effects of Mexico's internal reforms and free trade with the United States would reduce migration from Mexico by between 262,000 and 1.1 million.

Such reductions in immigration from Mexico are also estimated to have a significant positive benefit for the U.S. workers against whom the immigrants have generally competed for jobs, namely lowered paid, U.S. urban and rural workers. Less immigration means less competition for these jobs. The studies cited above estimated that the real wages of U.S. workers in these lower-wage, lower-skilled categories would rise from between 1.8% and 5.7% as a result of NAFTA.

No one knows the extent to which workers will be displaced due to the modernization of Mexican agriculture which is happening with or without NAFTA. We negotiated in the NAFTA long phase outs of tariffs in sensitive agricultural sectors, such as corn, to help ease the transition. Mexico is also implementing a number of programs to ease the short-term job dislocation caused by NAFTA and other economic reforms. For example:

- Mexican agriculture protection for corn will benefit from the NAFTA's longest phase-out period: 15 years. The NAFTA provides for a long protective transition period for Mexico's most traditional crops such as corn to diminish the dislocation effects of free trade on the most inefficient farming sectors.
- Banking reform is easing credit problems for small farmers and entrepreneurs -- major areas of job creation.
- Mexico is spending significant monies of much-needed infrastructure projects in rural areas and thus providing a new source of jobs.
- The Salinas Administration is committed to providing income adjustment assistance for farmers disadvantaged by economic and land reforms.

President Salinas wants to build a new, more prosperous Mexico and ambitious people willing to risk much to find better opportunities for themselves and their families are the people who he needs to keep in Mexico. Most people don't want to leave their families and homes, but are searching for jobs and economic opportunities. NAFTA will spur growth in Mexico, which will mean they can stay home.

President Clinton said it best when he asked on October 20, "If you beat (NAFTA) will it reduce the pressure for people looking for illegal immigration? No. It will increase the pressure on people coming here."

The Supplemental Agreements on Labor and the Environment

President Clinton endorsed NAFTA last October during the campaign in a speech at North Carolina State University, but he also set out a series of principles which he wanted to see incorporated into supplemental agreements and related initiatives.

After months of negotiations, President Clinton, Prime Minister Campbell, and President Salinas signed historic agreements on environmental and labor cooperation on September 14.

He made a promise to the American people which he has kept: that he would make sure economic growth with Mexico did not come at the expense of the environment or workers' rights, and that we would be protected from the possibility of import surges.

These Agreements are ground-breaking. The fundamental objectives of the labor and environment agreements are to work cooperatively to improve conditions for labor and the environment throughout North America and to improve national enforcement of national laws relating to labor and the environment. They commit all three nations to fair, open and equitable administrative and judicial processes for the enforcement of environmental and labor laws.

These supplemental agreements strengthen NAFTA, and represent an unprecedented commitment to cooperate on these issues in connection with a trade agreement. They ensure our ability to take action and impose sanctions if our trading partners engage in persistent patterns of failure to enforce their laws.

The Supplemental Agreement on the Environment

The Supplemental Agreement on Environmental Cooperation is the first environmental agreement negotiated specifically to accompany and build on a trade agreement. This agreement will help ensure that the economic development that will occur as a result of NAFTA takes place in a way that protects and improves the environment.

The Agreement contains important obligations regarding citizens' access to justice. These include commitments to openness and transparency in both the development of laws and regulations and the legal processes for resolving disputes, and commitments to provide appropriate public access to administrative and judicial processes for the redress of harms and for environmental law enforcement.

While recognizing their rights to set whatever levels of protection they deem appropriate, the three countries pledge to ensure that their laws and standards continue to provide high levels of environmental protection and to work cooperatively in

enhancing protections. They commit to effective enforcement of those laws, a commitment backed up by a dispute settlement process. Countries are obligated to report on the state of their environments, and to promote environmental education, scientific research, and technological development.

The Agreement creates a new Commission on Environmental Cooperation. The three countries' top environmental officials (the EPA Administrator for the United States) will comprise the Commission's Council.

A Joint Advisory Committee made up of nongovernmental organizations from all three countries will advise the Council in its deliberations.

The heart of the Commission is its Secretariat, housed in a single location and operating under the direction of an Executive Director, who will take broad direction from the Council but maintain a high degree of independence.

A major goal of the Commission is to broaden cooperative activities among the NAFTA partners. The Commission will have an aggressive and important workplan.

It will promote greater public access to information about hazardous substances (what we call "community right-to-know"). It will consider ways to promote the assessment and mitigation of transboundary environmental problems. The Commission will serve as a point of inquiry for public concerns about the NAFTA's effect on the environment, and be an avenue for NAFTA dispute settlement panels to obtain environmental expertise when faced with environmental issues.

It will consider the environmental implications of process and production methods (PPMs), or, as the agreement states, "environmental implications of products throughout their lifecycles."

Transparency is the hallmark of the NAFTA Supplemental Agreement on Environmental Cooperation, and citizens of all three countries will be free to make submissions to the commission on their concerns related to the full range of environmental issues. The Commission's secretariat will act on submissions appropriately to develop fact-finding reports. The reports will be made public if two of three Parties concur (*i.e.*, the party that is the subject of the report cannot bar publication).

The Agreement creates a consultative process for the Council to discuss issues, including those brought to light through the public submission process and the Secretariat's fact-finding activities. Special attention is given to matters involving non-enforcement of a nation's environmental law when consultations fail

to resolve the matter.

In the event that one Party considers that another Party has persistently failed to effectively enforce its environmental laws (affecting a sector involving traded goods or services), the matter may be referred to a dispute settlement panel. The dispute settlement process provides, in the end, for sanctions if countries have failed to correct problems of nonenforcement.

The Agreement has a broad, inclusive scope. Any environmental or natural resource issue may be addressed through the work program, and any environmental concern or obligation of the agreement may be the subject of consultations between parties, from migratory and endangered species to transboundary pollution, to advising the NAFTA Commission on disputes on health restrictions. Understandably, the realm of issues subject to dispute settlement panels and possible sanctions is more circumscribed, focused on whether the Parties are effectively enforcing their environmental laws, and whether that nonenforcement is related to trade or competition among the Parties.

In short, the Agreement on Environmental Cooperation will ensure that economic growth is consistent with goals of sustainable development.

Rejecting NAFTA will do nothing to solve environmental problems. In truth, we would lose a remarkable opportunity, first, to set a precedent for future trade agreements, and secondly, to find solutions with our two neighbors. This is why six major environmental groups, representing a majority of environmentalists in this country, announced their support in September for passage of the NAFTA.

Indeed, NAFTA has triggered new cooperation on the environment in one important area. In light of the particular needs for environmental infrastructure in the U.S. Mexico border area, we have also negotiated an agreement with Mexico for coordination and financing of such projects.

The Supplemental Agreement on Labor

The provisions of the NAFTA side agreement on labor constitute a truly historic linkage of trade and labor issues. This represents the first labor agreement negotiated specifically to accompany a trade agreement -- the first attempt to match trade and investment rules with a more integrated framework for labor market policies -- the first attempt to manage the terms of the potential change in labor markets brought about by an accord between the United States and a trading partner. This agreement will benefit workers throughout North America and help ensure that businesses do not leave this country to take advantage of cheap labor and poorly enforced labor laws.

The North American Agreement on Labor Cooperation was developed around three fundamental principles: First, enhanced collaboration, cooperation, and information exchange among the three countries. Second, increased efforts to make explicit and highly visible each country's labor laws and their implementation. Third, increased use of effective mechanisms to improve the national enforcement of national labor laws.

As with the environmental agreement, the labor agreement contains important obligations regarding citizens' access to justice, including commitments to openness and transparency in the administration of laws and regulations and the legal processes for resolving disputes, and commitments to provide appropriate public access to administrative and judicial processes for the redress of harms and for labor law enforcement. Each country is also obligated to promote public awareness and understanding of its labor laws.

The three countries pledge to ensure that their laws and regulations provide for high labor standards and to work cooperatively in enhancing and improving those standards, while recognizing their rights to establish their own labor standards as they deem appropriate. They commit to effective enforcement of those laws, a commitment backed up by a dispute settlement process.

The labor agreement, like the environmental agreement, creates a new Commission on Labor Cooperation. The three countries' top labor officials (the Secretary of Labor for the United States) will comprise the Commission's governing Council. The Council will have a broad mandate to oversee the implementation of the agreement, establish priorities for cooperative activities on labor issues, including occupational safety and health, child labor, benefits for workers, minimum wages, industrial relations, legislation on union formation, and labor dispute resolution. It will also facilitate country to country consultations.

A Secretariat will provide technical support to the Council, and will itself report periodically to the Council on a wide range of labor issues, including labor laws and their enforcement, labor market conditions such as average wages and labor productivity, and training and adjustment programs in the three countries. The Secretariat will be headed by an Executive Director appointed by consensus of the parties for a fixed term, and the Executive Director will appoint the staff.

Each country will also establish a National Administrative Office (NAO) that will be a point of contact between other Commission entities and national governments. Each NAO will consult with the other NAOs to seek and exchange information on labor matters. Each country has a right to determine how its own NAO is staffed, and its powers and functions. The NAOs will serve as the vehicle for the citizens of each country to question and

comment upon the full range of labor practices in the territories of the other parties by making submissions to their respective NAOs.

The labor agreement, like the environmental agreement, has a broad, inclusive scope. Any labor issue may be the subject of cooperative programs among the governments and addressed through Secretariat studies and background reports. Any labor concern or obligation of the agreement, including those brought to light through the public submission process and the NAO's information-gathering activities, may be the subject of consultations between Parties, among NAOs and, as necessary, among Ministers. Special attention is given to matters involving non-enforcement of a nation's labor law when consultations fail to resolve the matter.

At the request of any Party, an Evaluation Committee of Experts (ECE) will be convened to examine many problems concerning the enforcement of labor laws. ECES, composed of independent experts, will report and make recommendations on each matter as it is treated in each of the three countries.

In the event that one Party considers that another Party has persistently failed to effectively enforce its worker health and safety, child labor, or minimum wage laws (affecting a sector involving traded goods or services), the matter may be referred to a dispute settlement panel. The dispute settlement process is the same in each agreement: it provides, in the end, for sanctions if countries have failed to correct problems of nonenforcement. Such sanctions include monetary enforcement assessments of up to \$20 million (and higher over time, since the maximum penalty is indexed to trade between the Parties) and, as a last resort if a country fails to pay the penalty, trade sanctions in the form of the withdrawal of appropriate NAFTA benefits. (Where the complained against Party is Canada, the panel's monetary enforcement assessment will be enforceable as a judgment in Canadian courts rather than through trade sanctions.)

In short, the mechanisms I've described will allow us to enjoy the fruits of the NAFTA accord and at the same time allow us to protect the basic rights of workers. Moreover, they do this in the appropriate way: by encouraging voluntary improvement in standards and enforcement, and resorting to sanctions only as a last resort. But make no mistake, both the threat of sanctions and the sanctions themselves, once imposed, will produce compliance with the terms of the agreement.

Foreign Policy Implications

The NAFTA deserves to be approved on its economic merits. However, the foreign policy implications of this issue should also not be minimized. Echoing comments made by Secretary of State Warren Christopher recently: "Rejection of NAFTA would seriously

damage our relations with Mexico and erode our credibility with the other nations of the hemisphere and around the world. For the United States, failure to approve NAFTA would be a self-inflicted setback of historic proportions."

In my view a Congressional rejection of NAFTA would be a "shot heard around the world". It would be read across the globe as a seachange, marking a U.S. retreat from our traditionally strong advocacy for open markets and expanded trade. It would undermine our position as a negotiating partner on global trade agreements, like the Uruguay Round, which are vital to the economic renewal of the United States.

NAFTA is good economic policy and good foreign policy.

Conclusion

All Americans agree that we cannot respond to the challenge of a changing world by drifting, content to accept the result of other nations' trade and economic strategies. We need our own strategy, which builds on our strengths, faces our weaknesses, and responds to the challenges and realities around us.

We would ask the opponents of NAFTA: does walking away from the NAFTA seem like good trade and economic strategy? Can you envision Japan or the EEC -- if they were in our position -- rejecting a deal like this? Would either of them kick sand in the face of their third biggest, and fastest growing, trading partner? Would they opt for the status quo, the unbalanced relationship, where Mexico keeps the tariff and non-tariff barriers it chooses to keep?

Would they ever be willing, in one unthinking lurch, to throw away the friendship and progress that have characterized the past seven years, dramatically reversing the historic pattern of mistrust and antagonism? Would they conceivably believe that it would be easier, somehow, to cooperate with Mexico on the environment, controlling drug traffic, or illegal immigration, if NAFTA were defeated?

This Administration did not negotiate the NAFTA. Moreover, Bill Clinton as a presidential candidate was sharply critical of the economic and trade policy of his predecessors. When confronted with the need to make a decision on NAFTA, he approached it very skeptically. There were powerful political reasons for opposing it.

But when he studied it, he found that NAFTA -- particularly if strengthened by supplemental agreements -- would be strongly in the economic interest of the United States. It was not a favor that we were doing for Mexico. It would benefit both countries, and Canada as well. It would not solve all our nation's economic problems,

but it would be an important piece of the economic strategy that we were putting in place to build the world's most productive and competitive economy.

The Administration has the responsibility of convincing Congress and the country that NAFTA is in the national economic interest, and we intend to do so. I am confident that by the time Congress votes on NAFTA later this year, the country will recognize that NAFTA is a vital part of the solution to the economic challenges that face us.

Mr. MAZZOLI. Mr. Ambassador, I understand you have to leave and you wish to take questions now.

Let me ask you, since the initiative for the NAFTA came from President Salinas, and therefore NAFTA is very, very important to the nation of Mexico, and knowing that our negotiators probably had some leverage, why was not something done in here concerning a requirement and a commitment to be made by Mexico to control the illegal immigration that they know is done by criminal syndicates?

Mr. YERXA. Mr. Chairman, I was not myself involved in the initial negotiations of NAFTA. I can tell you I have been involved as a U.S. trade negotiator primarily working in GATT for the last several years, and I am familiar with a lot of the decisions that went into both the NAFTA negotiations as well as the GATT negotiations where these issues of services and immigration have arisen.

It has been my sense all along that we had a very real concern about putting our immigration policies on the table with other countries in trade negotiations.

Mr. MAZZOLI. I didn't say that. That is not my question. I didn't say our immigration policies, I said their responsibility to control illegal trafficking in human beings.

Mr. YERXA. Yes, I understand that and my point is that, as negotiators of trade agreements, we have been extremely cognizant not to be perceived as negotiating our immigration policies. The fact of the matter is what Mexico wanted to pursue in this negotiation is something along the lines of a common market type arrangement with the United States as you would see in Europe where you would not only have the free movement of goods and services, but the free movement of people.

Mr. MAZZOLI. But we don't have the common market. If you would answer my question. Why didn't our negotiators not put something in the agreement?

Mr. YERXA. I think we were extremely resistant to the kinds of efforts from Mexico that I am talking about and in looking at what we could achieve in further commitments from Mexico, I am going to defer to my colleagues, but I think there was a feeling that if you enter into that kind of a negotiation, it is a two-sided negotiation.

Mr. MAZZOLI. We did have a side agreement on worker rights and a side agreement on the environment. That was done in your watch. That was done since January.

Mr. YERXA. Yes.

Mr. MAZZOLI. Why was there not some thought of having a side bar agreement on illegal entry?

Mr. YERXA. I want to point out that under that side agreement, all three parties undertake commitments and obligations with respect to the enforcement of their environmental and labor laws.

Now, once again, my understanding is that we don't want to enter into that kind of a reciprocal agreement on immigration.

Mr. MAZZOLI. There is nothing reciprocal about it. It is just that we control our border; they should be able to control illegal trafficking in human beings.

Mr. YERXA. And I think those kinds of arrangements are possible, Mr. Chairman. But—

Mr. MAZZOLI. But they are not in NAFTA.

Mr. YERXA [continuing]. But I do know that every time we have entered into discussions with other countries in trade agreements and when the issue of immigration has come up from the other side, the consistent reaction from our consultations with Congress has been to be very wary of getting into negotiations about the subject of immigration.

Mr. MAZZOLI. Is that correct, Mr. Ambassador, that it was our wariness about getting this that produced a situation in which there is nothing, no leverage, nothing in the agreement that deals with immigration?

Mr. YERXA. Mr. Chairman, let me once again emphasize that I am not an expert on immigration policy and what I am trying to suggest to you, if you will just let me explain, what I am trying to suggest to you is that in negotiating a trade agreement, you look at several aspects of your economic relationship.

Now, you are correct in pointing out that we did not obtain from Mexico under this agreement commitments with regard to control of illegal immigration. That doesn't mean we don't have other mechanisms for obtaining those commitments from Mexico, and other mechanisms under United States law and United States policy to do so.

And that is why you have other witnesses here to explain exactly what the policy is. But, Mr. Chairman, that is not a very good argument for voting down the NAFTA.

Mr. MAZZOLI. You are not here to argue for NAFTA. We are here to find out what NAFTA does do about illegal immigration. That is why I thought you would be better prepared to address those specific issues.

Mr. YERXA. I am trying to suggest that I am not certain that defeat of NAFTA will improve this situation.

Mr. MAZZOLI. I appreciate that. Thank you.

The gentleman from Florida.

The gentleman from California.

Mr. BECERRA. Thank you, Mr. Chairman.

Actually, let me ask one related question to this. It is my understanding—I can't cite the document or the source for this, but wasn't it the case that the Mexican Government was very interested in discussing the whole issue of immigration and labor mobility, but it was our previous administration under President Bush which said no to any specific discussion of immigration?

Mr. YERXA. What Mexico wanted to pursue when the NAFTA negotiations began was an arrangement which would have allowed greater migration of unskilled labor from Mexico to the United States as part of a common market-like arrangement.

We refused to undertake that kind of a negotiation.

Mr. BECERRA. So, are you saying that they only discussed the one subject of having additional Mexicans migrate as workers into this country?

They did not wish to discuss the issue of the undocumented flow of individuals into this country?

Mr. YERXA. I think they would have discussed both, but I think the conditions for obtaining the kind of agreement that the chairman is talking about would have been a quid pro quo.

Mr. BECERRA. Let me ask a question with regard to U.S. industries that may have experienced worker displacement as a result of NAFTA or may if NAFTA should go through.

Why was there no consideration given within the text of the original agreement and to some degree I would say even in the side agreements to try to accommodate individuals and industries that would suffer dislocation on this side of the border. Most of the analyses showed for example, that the garment industries and certain agricultural industries would suffer dislocation. Why wasn't there effort, consideration on this point to try to do something in the agreement and the side agreements on this point?

And I know there is some discussion about a worker readjustment program, but why wasn't there any discussion beforehand to make sure that any worker or businessmen and women that might lose their businesses that there would be some accommodation for those individuals and businesses?

Mr. YERXA. I want to stress that it is a very important component of this package that we are submitting to Congress that does provide safeguards for industries which face those transitions as well as worker training, worker adjustment policies, that is something Mr. Katz will speak to quite persuasively I think.

Mr. BECERRA. But that is a recent development, the worker retraining proposal.

Mr. YERXA. Well, it is something that had been talked about all the way through the NAFTA process, including during the 1991 discussions in the Congress on fast track extensions. There was a resolution adopted by Congress which talked about the need for a worker adjustment program as part of NAFTA.

My point to you, Congressman, though, is that a worker training and worker adjustment policy is not traditionally something we negotiate in an agreement with another country. It is something we do as a result of changes in U.S. policy on a unilateral basis. We don't have to negotiate that with Mexico, nor would we want to enter into some agreement with Mexico where we would provide some kinds of opportunities and incentives for their dislocated workers.

The facts under this agreement are clear, Mexico will have more adjustments than the United States to free trade. It will have more tariffs to reduce, more quotas to eliminate for industries that will face greater competition and more jobs that will be changing as a result.

And the Mexicans have decided that that policy is in their long-term interest because you won't get overall economic growth unless you stop protecting inefficient industries and start producing internationally competitive industries.

I don't see how we could negotiate our worker adjustment or worker training policies in international agreements.

Mr. BECERRA. Perhaps you are correct that wouldn't be proper to discuss in a particular agreement. I don't agree with you. I think you could still discuss it, especially since both countries recognize the need to accommodate the displaced worker and the displaced businessman or woman. But given that it may not be appropriate for an international agreement, why not put that on the table in

advance, versus waiting to the last moment when you are no more than a month away from a vote?

Why not discuss that as a proposal that would be part of, perhaps not in the agreement, but a component of the agreement?

Mr. YERXA. Yes, I understand. The issue of proposing a worker adjustment program for those affected by NAFTA was first raised and discussed during the Bush administration in consultations with the Congress. It became a part of the resolution of the Congress in adopting the fast track bill in 1991.

As soon as the Clinton administration came in, we began putting together what we thought was not only an extremely important comprehensive worker retraining and worker reemployment program to propose to the Congress, but a NAFTA-specific component, notwithstanding the fact that all our studies and all our evidence show greater job creation than job loss.

There are certain limited sectors in which there will be adjustments, and we started from the very beginning developing and proposing as part of this package a worker retraining worker readjustment proposal which will be in the bill.

So I understand the concern you are raising. I think from the very beginning of the administration, and Mr. Katz really is the one to address this, that was in the game plan and it has been followed through on.

Mr. BECERRA. Thank you.

Mr. MAZZOLI. I thank my friend from California. Since this whole thing is still in so much flux, it may be worth your taking a message downtown to the effect of what the gentleman from California has said about worker rights and retraining and things of that nature, and what at least some of us have said about the question of commitment on the part of the Government of Mexico to control its criminal activities.

I am talking about the coyotes, the criminal syndicates, the activities where someone pays a fee to gain entrance and there are people on our side of the border with automobiles to spirit them away from the border. Things like that.

And I am not sure that enough was done by our negotiators. It may not still be too late.

We will now proceed to the testimony of our remaining panelist, Ms. Meissner, and I believe if I am correct in saying this is your first appearance as Commissioner before this panel. We look forward to many opportunities to work together.

STATEMENT OF DORIS M. MEISSNER, COMMISSIONER, IMMIGRATION AND NATURALIZATION SERVICE

Ms. MEISSNER. Thank you, thank you very much, Mr. Chairman. This is my first time appearing before you. And I to look forward to a productive working relationship with the committee.

On the subject of NAFTA and immigration, let me begin by summarizing the essential links between immigration and the NAFTA.

First of all, NAFTA is America's best long-term opportunity to reduce illegal immigration from Mexico. Second, NAFTA will create jobs in both the United States and Mexico. Third, the new jobs in Mexico will strengthen their economy, and that provides the best

single solution to the flow of undocumented workers into the United States.

Quite simply, I believe that NAFTA is the United States' best opportunity to reduce illegal immigration pressures across our southern border in the long term. The promise of a greatly strengthened Mexican economy is higher standards of living for Mexicans presents us with the single best systemic solution to the flow of undocumented workers.

By passing NAFTA, the Congress should start us on the road toward gaining control of what has seemed uncontrollable and perpetual.

Now, I wish that today we could say that this promise will happen in a short period of time. It will not. Given the economic opportunities that are available in the United States in relation to those available in Mexico and other countries, illegal immigration will be a phenomenon that we will address for the future, even with the enactment of NAFTA and the immediate trade benefits it will generate.

But the short- and medium-term effects of migration from Mexico will be significantly mitigated by NAFTA and by NAFTA's provisions that allow for gradual adjustments of agriculture over a period of 15 years with a phasing out of tariffs as large numbers of jobs are created in other sectors of the economy.

Migration from and through Mexico will be more substantial in the midterm without NAFTA than with it. The press of demography and economics in Central America make that a region of substantial illegal immigration in the coming period.

In that regard, the United States owes a substantial debt to the Government of Mexico for its efforts during the past 4 years to deny the traverse of its territory to third country nationals. There is no simple response to the concerns about short- and mid-term migration pressures in Mexico.

We can assume that even under the most favorable NAFTA scenario, it will take Mexico some time to address both unemployment and underemployment effectively. During that time, some Mexicans will seek to enter the United States illegally to obtain unauthorized employment.

But there are a couple of factors that we can look at that might be relevant in that regard.

In the first place, we really do not know the point at which migration pressures become aggravated or begin to abate as development efforts begin to be successful.

Second, without successfully implementing NAFTA, the period during which Mexico will continue to be in the throes of the forces of underdevelopment will be aggravated and external migration pressures will continue for much longer periods.

Finally as the result of the Immigration Reform Act of 1986 and as a result of the Immigration Act of 1990, we have substantially increased legal immigration from Mexico. We know that illegal immigrants sometimes follow the pathway of legal immigrants because a good share of illegal immigration is an effort to reunite families where there are legal immigrants.

So with the increases in legal immigration that will occur throughout the next decade in the United States, it is reasonable

to assume that some illegal immigration will be reduced as a result.

In addition, the job growth that results in NAFTA induced economic development should gradually alleviate much of the pressure for illegal immigration. In addition, the closer relationship with Mexico created by NAFTA also creates the conditions for better controls by Mexico of both the organized smuggling of illegal migrants and of non-Mexican nationals who cross illegally into the United States.

We will, of course, continue to make certain that we improve our own border controls and that we have effective workplace enforcement measures in place.

Now, in regard to our—in connection with our relationship with Mexico and the point that you raised earlier, Mr. Chairman, about criminal law enforcement and about smugglers. Donna Hrinak and I have both just come from a meeting that began this morning with Mexico as a result—in connection with the binational mechanisms that are in place, and I think we would both be able to assure you that what we have heard and that the relationship that exists between the United States and Mexico where smuggling and criminal traffic is concerned is one of the utmost seriousness and the utmost effort to work together.

We will be issuing a statement this afternoon which I think will underscore that point. And I would simply say that there are a variety of ways of approaching a problem like this. My own view is that the NAFTA and having the NAFTA in place is extremely important psychologically as a basis for the kind of cooperation and common commitment that you are rightly asking for.

My own view is that we have that cooperation and commitment and that it will be significantly strengthened if NAFTA is enacted.

Finally, we have given you in our testimony some information on some of the specific implications with traffic, visitors, and so forth. And so you have that on the record if you need it. I would simply like to conclude this portion of my participation by saying that when all is said and done, the NAFTA does not provide any further encouragements to illegal immigration, either in the near or the long term beyond incentives that already exist and are in place.

What it does do is a great deal to create jobs and opportunities in each of our respective economies. Deepening economic differences among the nations of North America are not defensible and are not in our interests. Measures such as NAFTA offer the best chance that we have for changing the character of clandestine migration from Mexico into an increasingly regulated reciprocal flow.

In the decades ahead a strong economy to our south is the only real and sustainable way to reduce migration pressures.

Mr. MAZZOLI. Thank you very much, Ms. Meissner.

[The prepared statement of Ms. Meissner follows:]

PREPARED STATEMENT OF DORIS M. MEISSNER, COMMISSIONER, IMMIGRATION AND
NATURALIZATION SERVICE

Mr. Chairman and Members of the Subcommittee:

Thank you for your invitation to appear before you today to discuss immigration issues related to the North American Free Trade Agreement (NAFTA). Although immigration issues, with the exception of the temporary entry of business persons, are not an explicit element of the Agreement, NAFTA will, nevertheless, have a significant impact on the mission of the Immigration and Naturalization Service (INS), now and in the future.

My presence here today reflects the extent to which migration issues are interwoven with a broad range of domestic and international concerns. I am pleased to have this opportunity to add my voice to those who support NAFTA and its vision for the future of North America.

I would like to begin by summarizing the essential links between NAFTA and immigration:

- NAFTA is America's best opportunity to reduce illegal immigration from Mexico.
- NAFTA will create jobs in both the United States and Mexico.
- The new jobs in Mexico will strengthen their economy, which will provide the best single

solution to the flow of undocumented workers
into the United States.

Short/Long-Term Effects of NAFTA

Quite simply, I believe NAFTA is the United States' best opportunity to reduce illegal immigration across our southern border in the long term. Its promise of a greatly strengthened Mexican economy, with its corollary of a higher standard of living for Mexicans, presents us with the single best systemic solution to the flow of undocumented workers into the United States. By passing NAFTA, the Congress will start us on the road toward gaining control of what has seemed uncontrollable and unending.

I wish I could tell you today that I think it will be a short journey, I do not. Given the economic opportunities available in the United States in relation to those available in Mexico and other countries, illegal immigration will be a phenomenon we must address for the foreseeable future, even with the enactment of NAFTA and the more immediate trade benefits it will generate.

This view is drawn from the findings made by the Commission for the Study of International Migration and Cooperative Economic Development, which the Congress established in 1986 to assess

ways in which economic and development policy might diminish migration pressures. The Commission found that increased trade was the stimulus most likely to increase economic opportunity in migrant-sending countries and that increased opportunity lessens the need people feel to emigrate. The Commission also noted, however, that in the short- to medium-term, economic development can stimulate migration. They found that rural populations, displaced as the result of development's effect on traditional social and economic systems, sometimes become new migration flows.

Such short and medium-term effects will be significantly mitigated by the NAFTA provisions that allow for a gradual adjustment of agriculture over a 15-year period, with tariffs phased out as large numbers of jobs are created in other sectors of the economy. Independent of NAFTA, major agricultural reform has already begun in Mexico, including President Salinas' announcement October 4th of the new agricultural support program, PROCAMPO. Agrarian reform laws in 1991 and 1992 allowing for the private ownership and sale of communally held lands and the crisis in agricultural sector loan defaults in Mexico have the potential to result in significant workforce displacement. Without NAFTA and the job creation it promises, migration pressures generated by changes already occurring within Mexico are likely to increase significantly in the years immediately ahead.

I would be remiss, however, if I did not bring to the Committee's attention the fact that migration from and through Mexico will be far more substantial in the mid-term without NAFTA than with it. The press of demography and economics in Central America make that a region of substantial illegal migration in the coming period. In that regard, the United States owes a substantial debt to the Government of Mexico for its efforts during the past four years to deny traverse of its territory to third country nationals seeking to traverse Mexican territory to effect illegal entry to the United States. Let me illustrate this point with some specific figures. In 1988, only 13,000 illegal migrants were arrested and removed by Mexican authorities, most transiting Mexico for the United States. In the first year of the Salinas Administration, that number rose to 88,000. In 1990, the number rose again to 121,000. In 1992, to 131,000, and last year it stood at 124,500. These intercepts of third country nationals have resulted in significant reductions of pressures on our domestic enforcement resources and our budgets.

In addition, the Governments of Mexico and the United States, are concerned about the incidents which occur at their borders, and have entered into a series of high level meetings to discuss various ways they can cooperate in law enforcement. A liaison mechanism at the Federal level was established to discuss border incidents, and recently regular local meetings have been

held between representatives of Federal and local government to discuss border cooperation and any incidents which may have occurred.

More generally and over the longer term, the effect of trade liberalization and development upon migration will be a function of the ways the economy and standards of living improve. Here the critical issue is wage differentials.

Because per capita income is substantially higher in the United States than in Mexico, Mexican wages need to increase (narrowing wage differentials) and improved social well-being must be broadly experienced throughout Mexican society to discourage potential migrants from coming north. The U.S. International Trade Commission's study on wage issues concluded that the wage gap would, indeed, diminish slightly, with Mexican real wages increasing at a greater rate than real wage increases in the United States. If this happens, migration incentives should decline.

There is no simple response to concerns about the short to medium-term issues we face. We can assume that even under the most favorable NAFTA scenario, it will take Mexico considerable time to address both its unemployment and underemployment effectively. During that time, some Mexicans will seek to enter the U.S. illegally to obtain unauthorized employment. I think,

however, that we need to consider the following points in this regard:

- First, it is important to understand that we do not really know the threshold at which migration pressures either become aggravated or abate as a result of development.
- Second, absent a successful implementation of NAFTA, the period during which Mexico will continue to be in the grasp of development forces which aggravate external emigration pressures will be longer--with more consequential short- and medium-term illegal immigration repercussions for the United States.
- Finally, both the Immigration Reform and Control Act (IRCA) and the Immigration Act of 1990 (IMMACT) have increased substantially the "front gate," i.e., legal immigration opportunities for Mexicans. Such increases may stand a chance to reduce some of the pressure for "back-door," i.e., illegal entries.

These opportunities mean that Mexican (and other) immigrant families will be able to reunify much more readily in the United States. Research makes clear that illegal immigrants travel along pathways established and kept active by immigrant networks--and that a large share of illegal immigration is made up of aliens who reunify with their families outside of the immigration laws. We will see increases in legal immigration from Mexico throughout the decade. I believe that it is reasonable to assume that this additional access will reduce illegal migration by some Mexicans for whom illegal migration and employment in the United States have become family survival strategies.

In addition, the job growth resulting from NAFTA-induced economic development should gradually alleviate much of the pressure for illegal entries by Mexicans. Furthermore, the closer relationship with Mexico created by NAFTA also creates the conditions for better controls by Mexico of both the organized smuggling of illegal migrants and of non-Mexican nationals who cross illegally into the United States. We will continue to make certain that we improve our border controls and that we have effective workplace enforcement measures in place. Such actions are incumbent upon us with or without the NAFTA.

Border Enforcement

Responding to the likely short- to medium-term impacts of NAFTA will require strengthening our enforcement efforts along the border, both at and between ports of entry.

Although INS anticipates no major increase in noncommercial travel from the implementation of NAFTA, any improvement in the economy of Mexico will result in some increase in recreational and business traffic and in the number of Mexican citizens requesting Border Crossing Cards for entry to the United States. Sufficient inspectors should be available to answer questions at ports and to maintain liaison with other government officials to ensure smooth flows of trade and tourism.

INS estimates that legal noncommercial traffic coming into the United States from Mexico as a result of NAFTA will increase by an average of approximately three percent annually for the next five years, i.e., over nine million entries per year. Commercial traffic, which is expected to increase at a significantly greater rate, is handled by the U.S. Customs Service. In response to these increases and to the Administration's commitment to streamline government operations, we are currently looking at ways to handle these potential workload increases efficiently. We expect to add approximately 200 land border inspectors relative to the income from certain

service charges collected at ports of entry for application processing for various benefits. Although some additional resources may be required, we are examining our work processes before making new resource projections. We are also examining alternative sources of funding to meet the needs that may arise.

The Border Patrol operates between the ports of entry to deter illegal entry. Under the initiatives announced in July by President Clinton to combat illegal immigration, the number of Border Patrol agents on the line will increase by 600 to deter illegal entry along the border. In response to the Attorney General's on-site review of Border Patrol operations, the INS is developing additional plans to further enhance border operations. In addition, INS is using new technologies--integrated sensors, and better communication networks--to increase control over our borders. These initiatives will strengthen our effectiveness at the southern border considerably and will build a strong base upon which the INS can be more effective in deterring increases in illegal migration in coming years.

NAFTA Immigration Provisions

In anticipation of the enactment of NAFTA, INS has participated with Department of Labor (DOL), the Department of Justice (DOJ), the United States Trade Representative (USTR), and the Department of Commerce (DOC) to conduct a review of Chapter

16 of the Agreement to determine what, if any, amendments must be made to the Immigration and Nationality Act (INA) and related statutes. Chapter 16 addresses the temporary entry for business purposes of citizens of Canada, Mexico and the United States who qualify as business visitors, traders and investors, intracompany transferees, and professionals.

The provisions of Chapter 16 are modeled after those in the United States-Canada Free Trade Agreement (CFTA) and fully preserve each country's rights to protect its domestic labor force and permanent employment, implement its own immigration policies, and ensure border security. Except for certain general provisions, no other NAFTA chapter imposes obligations regarding immigration matters.

Other key provisions would deny admission if the entry of a business person might affect the settlement of a labor dispute. In addition, Mexico and the United States have agreed to an annual numerical limit of 5,500 on the entry of Mexican professionals into the United States. This limit is a transitional measure which will expire after 10 years, unless Mexico and the United States decide to remove or adjust it.

In general, Chapter 16 is consistent with existing INA provisions and few statutory changes are needed. Moreover, current U.S. law and practice relating to exclusion and

deportation of aliens will apply unchanged to business persons seeking temporary entry under the provisions of this chapter.

The commitments in Chapter 16 for Business Visitors and Intracompany Transferees, two of the four categories of business persons covered by NAFTA, require no modification of the INA. With respect to professionals, the United States has sought to conform to the IMMACT by requiring that Mexico accept the principle of a transitional period during which the Mexicans must comply with requirements of our current immigration law controlling specialty occupations and registered nurses. At the end of that period, Mexico will receive the same benefits that Canada presently enjoys concerning the temporary entry of its professionals to the United States. Statutory changes to INA 214(e) will enable the INS to control NAFTA professionals.

The temporary entry of traders and investors will require statutory action similar to the approach undertaken with Canada under the CFTA, which was based upon the Act of June 18, 1954. The latter Act conferred treaty trader and investor status upon nationals of the Philippines.

Conclusion

In the end, NAFTA does not further encourage immigration, either in the near or long-term, beyond incentives that already

exist. However, it does a great deal to create jobs and opportunities in each member's economy. Deepening economic differences among the nations of North America are not defensible and are not in our interest. Measures such as NAFTA, offer the best chance we have for changing the character of clandestine migration from Mexico into an increasingly regulated, reciprocal flow. We at INS are ready to deal with both the short- and medium-term impacts of NAFTA and look forward to the benefits of reduced migration pressures in the long run. Structural improvement of the Mexican economy will not come tomorrow, but, under NAFTA, I believe it will come. In the decades ahead, a strong economy to our South--the promise of NAFTA--is the only real and sustainable way to reduce migration pressures.

Mr. MAZZOLI. And now Ms. Hrinak. Am I pronouncing that right?

STATEMENT OF DONNA HRINAK, DEPUTY ASSISTANT SECRETARY FOR MEXICO AND THE CARIBBEAN, DEPARTMENT OF STATE

Ms. HRINAK. It is Hrinak. Thank you, Mr. Chairman. I appreciate the opportunity to testify before this subcommittee. I think Commissioner Meissner has given an excellent comprehensive picture of the United States-Mexico immigration relationship and of the potential impacts of NAFTA on immigration.

I would just like to make a few points to complement what she has said. We agree with her testimony that one of NAFTA's benefits over time will be the reduction of illegal immigration from Mexico. NAFTA, we believe, will increase jobs both in the United States and in Mexico and in his advocacy for the NAFTA, President Salinas of Mexico has recognized this, saying that Mexico would rather export goods rather than export workers.

NAFTA as Commissioner Meissner has noted, however, is not a panacea. We, and students of migration, have identified four factors affecting migratory flows from Mexico to the United States. Geographic proximity, the existence of strong cultural ties, and significant kinship support network, and income disparity.

Geographic proximity is a reality that we are not able to change. Given that there are 12 to 13 million Hispanics of Mexican heritage in the United States, migration on cultural and kinship basis will also continue. The only one of these factors that can be influenced by government action through economic policies is income disparity. And that is a primary motivator of illegal migration.

Undocumented migrants are largely economic migrants coming to the United States in search of work. There have been since the 1940's, two major waves of Mexican migration into the United States. The second of these occurred in the 1980's when the Mexican economy was suffering major setbacks. The banking crisis of 1982 spurred a wave of migration that probably peaked in 1986, when Border Patrol apprehensions of deportable Mexicans reached about 1.7 million. The Mexican economy is much stronger today than it was in the 1980's.

Since 1987, in particular, Mexico's economic achievements have included reducing inflation from 159 to 12 percent, headed for single digit inflation this year. Mexico has privatized over 1,000 entities, including the banking sector which was nationalized in the late 1970's. Mexico transformed a huge fiscal deficit into a fiscal surplus.

We in the United States are not the only ones that are recognizing these economic achievements. They are being welcomed by the Asian Pacific Economic Community, APEC, and the Organization for Economic Collaboration and Development, OECD, both of which are welcoming Mexico's pursuit of membership in those organizations.

Mexico is addressing the push factors of migration in other ways besides economic. Improvements in education are important because Mexico recognizes that its workers are going to have to be prepared to perform the kinds of work that the dynamic Mexican

economy will create. In 1993, for example, the Mexican Constitution has been amended to demand 9 years of compulsory schooling.

The solidarity program, which I know many members of the committee are familiar with, has been an unprecedented experiment in channeling some of these Federal funds resulting from the surplus into local communities, based on local needs. It establishes prosperity at the grassroots, which is also where migration occurs.

I know that there have been many observations that Mexican agricultural workers might be displaced by NAFTA's provisions. Mexican agricultural reform is occurring with or without NAFTA, and Mexico is also undertaking some programs to ensure that the agricultural reform program will be a transition over time and not an abrupt shock to the agricultural sector.

It has in place a program called Procampo which has altered the system of price supports that encouraged farmers to produce corn and beans into a system of direct payments to farmers that encourages them to remain on the land and promote the cultivation of nontraditional crops.

Mr. Chairman, I know that Ambassador Diego Asencio is one of your witnesses today. The Commission on International Migration and Cooperative Economic Development, which he chaired, explicitly recommended the development of a United States/Mexico free trade area as one way of reducing illegal immigration from Mexico.

NAFTA reflects that recommendation in highlighting our commitment to trade, not aid, in our relations with developing countries.

We believe that NAFTA is good economic policy. We also believe it is good foreign policy, fundamental to our relationship with Mexico in a time of cooperation on migration, especially on dealing with criminal syndicates involved in migration. I think our conversations with the Mexicans this morning that you have questioned and that Commissioner Meissner has discussed represent a sincere commitment to address these problems bilaterally.

Thank you.

[The prepared statement of Ms. Hrinak follows:]

PREPARED STATEMENT OF DONNA HRINAK, DEPUTY ASSISTANT SECRETARY FOR
MEXICO AND THE CARIBBEAN, DEPARTMENT OF STATE

Chairman Mazzoli, Members of the Subcommittee: Thank you for inviting me to come before you today to testify on the North American Free Trade Agreement and its potential impact on immigration.

The North American Free Trade Agreement is just that -- a trade agreement. The intention of the negotiators was to address the free flow of goods and services across borders, not the flow of people. The minor provisions in the agreement which touch on the movement of people utilize existing visa categories to make some allowances for the expected increase in temporary travel of business people under NAFTA. NAFTA does not alter U.S. immigration policy, nor its intent.

Nevertheless, our discussion on NAFTA and immigration is an important one. It reaches far beyond the simple visa provisions contained in the agreement. As the debate on the pros and cons of NAFTA has evolved, it has become more and more clear that the benefits of NAFTA will affect many diverse parts of American society and our economy. One of NAFTA's benefits, over time, will be the reduction of illegal immigration from Mexico. Simply put, NAFTA will increase jobs in both the United States and Mexico. There will be more jobs in Mexico, at higher wages and, therefore, less pressure to emigrate.

In speaking about NAFTA, Mexican President Carlos Salinas de Gortari has been unequivocal: "Mexico would rather export

goods than export workers." President Clinton and Secretary of State Christopher have been equally forceful in recognizing the importance of NAFTA on immigration. Most studies on NAFTA's impact on immigration have shown that a NAFTA will, in the long term, help reduce illegal immigration from Mexico.

NAFTA, however, is by no means a panacea. The migratory flow of Mexicans to the United States is based on four factors: geographic proximity and our shared 2,000-mile border, income disparity, the existence of strong cultural ties, and a significant kinship support network. Given that there are 12 to 13 million Hispanics of Mexican origin in the United States, migration based on cultural or kinship ties will continue. The only factor which can be influenced by government action -- through economic policies -- is income disparity.

Much of the immigration from Mexico is legal: it consists primarily of the families of U.S. citizens and lawful permanent residents who wish to join their relatives in the U.S. Secondly, some immigration to the U.S. is desirable and consistent with our national values. Thirdly, while Mexico is certainly the largest source of undocumented immigration to the United States, it has been the source of perhaps only one-third of the total legal immigration to the U.S. in the last decade.

THE DIMENSIONS OF MEXICAN IMMIGRATION:

In 1992, Mexicans accounted for 11.2 percent of the legal immigrants admitted to the United States (not including beneficiaries of legalization programs) -- a total of 91,332 people. More than 25 percent of these immigrants (24,440) were the immediate relatives of a U.S. citizen. Family reunification has traditionally constituted 80 to 90 percent of all legal entries from Mexico. Because this type of immigration is generally not sensitive to economic fluctuation, we can expect it to remain at current levels due to the many kinship and cultural ties our citizens and permanent residents have with Mexico.

In addition, another 122,470 Mexicans who were legalized under the amnesty provisions of the 1986 Immigration Reform and Control Act were admitted last year. Mexican citizens were the top beneficiaries of the 1986 amnesty programs -- both the regular legalization and the seasonal agricultural worker programs. Seventy-five percent of the applicants for legalization were Mexicans.

A much more extensive pattern of Mexican migration to the United States is evident in the statistics of undocumented Mexicans who enter the United States. Mexicans account for 90 percent of all deportable aliens located in the United States each year by the INS. Every year since 1990, this number has

reached more than one million. The General Accounting Office recently estimated that 2.7 million undocumented Mexicans were in the United States in 1990. They further estimated that Mexicans comprise 80 percent of the total undocumented population in the U.S.

Clearly, the numbers of undocumented Mexicans far outweigh the numbers of legally admitted Mexicans. This is why NAFTA stands to have such an impact on immigration. Undocumented migrants are primarily economic migrants, that is, they come to the U.S. in search of work that is unavailable in their home country. As Attorney General Janet Reno recently said, we will not stop the flow of illegal immigrants until they can find decent jobs, at better wages, in Mexico.

HISTORY OF MEXICAN IMMIGRATION IS INSTRUCTIVE:

Mexican citizens have migrated to the United States in appreciable numbers since the 1880s, although it was not until the mid-1960s that legal and illegal immigration climbed sharply. Since the 1940s, however, there have been two major waves of immigration from Mexico. These two periods give us several important insights on the causes of Mexican immigration to the United States today and explain why NAFTA is our best tool to reduce illegal immigration.

The "Bracero" program, which began in 1942, was based on an agreement between the United States and Mexico which allowed for the entry of an unlimited number of temporary workers in response to labor shortages in the agriculture sector due to World War II. Over the program's course until its end in 1965, more than 4.5 million Mexicans had come to the United States to work temporarily.

The end of the Bracero program, however, did not end Mexican migration to the United States. It most likely drove what had once been legal immigration underground. The lasting effect of 22 years of the Bracero program was that people had established networks -- "migration channels" -- which gave future migration momentum. Furthermore, although the program ended, the demand for cheap, flexible labor in the late 1960s and early 1970s continued as the U.S. experienced very low rates of unemployment.

The second major wave of Mexican migration came in the 1980s as the Mexican economy suffered major setbacks. In this wave, the "push" factors of migration were responsible for a major outpouring of Mexican workers as they looked north for opportunities that their own economy was not providing. The Mexican economy was simply not creating the jobs needed by its rapidly growing labor force. This exodus of workers may have come to a peak in 1986, when INS apprehensions of deportable

Mexicans reached nearly 1.7 million. It also led to the Immigration Reform and Control Act of 1986.

MEXICO IS ADDRESSING "PUSH" FACTORS OF MIGRATION:

In considering whether NAFTA will have an impact on immigration, we must take into account a number of developments in Mexico, going beyond NAFTA. The Mexican economy is much healthier than it was in 1980s. Since 1987, Mexico's notable economic achievements include the reduction of inflation from 159% to 12%, the transformation of a huge fiscal deficit into a surplus, and the attraction of large-scale foreign investment. Mexico joined the GATT in 1986 and has actively pursued free trade agreements with its other trading partners, including Chile, five Central American countries, and Venezuela and Colombia. Mexico is continuing to pursue membership in the Asian-Pacific Economic Cooperation (APEC) group and the Organization for Economic Cooperation and Development (OECD).

Other developments in Mexico that address the "push" factors of migration are social in nature. Improvements in education are progressing because Mexican leaders realize Mexico's work force must be better trained. In 1993, the Mexican constitution was amended to require education for all citizens through the ninth grade (up from the sixth). Social services in Mexico are improving as the government expands its tax base and improves compliance with income tax requirements. The "Solidarity"

program has been an unprecedented experiment in channelling federal funds for local infrastructure based upon locally identified needs. It has begun to establish prosperity at the grass roots, where none had existed before.

As we consider "push" factors of migration, we must consider observations that Mexican agricultural workers might be displaced by NAFTA's provisions which will eliminate the price supports the Mexican government now pays for crops such as corn and beans. These provisions will allow more efficient American producers of some crops access to Mexican markets. To address the possibility of disruption in the agricultural sector, the Mexican government has created an adjustment assistance program for potentially displaced agricultural workers. In addition, a 1991 constitutional amendment liberalized land tenure, which, with the elimination of price supports, should redirect production into more profitable crops, make farmers more efficient, and create jobs for farm workers in related businesses such as food processing.

WHAT IS THE SOLUTION TO ILLEGAL IMMIGRATION?

Increased economic opportunity at home is the greatest strategy for reducing the pressure to migrate. This was the conclusion of the Commission for the Study of International Migration and Cooperative Economic Development in 1990. The Commission

determined that the more job-creating growth there is in "sending" countries, the less people will feel forced to emigrate. The Commission went on to report that the most promising stimulus to future growth in sending countries is expanded trade with the industrialized countries, and especially with the United States. The 1990 report explicitly recommended the development of a U.S. - Mexico free trade area.

In a February 1991 report to Congress, the International Trade Commission concluded that as Mexico becomes more prosperous and the wages of its citizens increase, the economic incentive for migration from Mexico to the U.S. will decline.

Even though Mexican incomes and wages will increase under NAFTA, significant economic differences between Mexico and the U.S. will undoubtedly persist. The experience of the European Economy has shown, however, that economic integration can prevent migration between countries despite persisting economic differences. As rates of unemployment decline in Mexico and as the U.S.-Mexico wage ratio begins to narrow, NAFTA will reduce economic migration from Mexico to the U.S. despite the lack of equity.

Jorge Bustamante, a noted Mexican academic who has long studied Mexican immigration to the U.S., foresees that six to ten years after the implementation of NAFTA, we will see up to a 25

percent reduction in undocumented immigration. In 11 to 15 years, his study predicts a reduction of up to 50 percent.

A recent Bank of America study on the impact of NAFTA on California concludes that, over time, a free trade agreement will reduce the amount of both legal and illegal immigration from Mexico to California. Partly because of the implications for immigration, the California Governor's office firmly supports NAFTA.

More recently, the Institute for International Economics also concluded that NAFTA, in the long run, will substantially reduce Mexican migration to the U.S. On the other hand, without NAFTA, they found that the United States can expect higher levels of Mexican immigration indefinitely.

Secretary of State Christopher believes that NAFTA deserves approval on its economic merits alone. It will create the world's largest free trade area and will create even more high-wage, high-skill American jobs. The impact of NAFTA on immigration is secondary. It is, however, fundamental to our bilateral relationship with Mexico and it is our best tool to reduce the harmful effects of unregulated migration.

To quote Secretary Christopher, "NAFTA is good economic

policy -- and good foreign policy. It is a once-in-a-generation opportunity. For the sake of future generations, NAFTA is an opportunity that must not be lost."

Thank you very much.

Mr. MAZZOLI. Mr. Katz.

**STATEMENT OF LAWRENCE KATZ, CHIEF ECONOMIST,
DEPARTMENT OF LABOR**

Mr. KATZ. Mr. Chairman and members of the subcommittee, I am pleased to testify here today on the North American Free Trade Agreement and its likely impacts on immigration.

I first want to note that I share the conviction that Ambassador Yerxa stated earlier that the NAFTA is likely to generate substantial economic benefits for American workers. NAFTA is an important part of a strategy to create more and better jobs for American workers.

It will open up the relatively closed, but rapidly growing, Mexican market to United States exports that support the kinds of higher wage, higher skilled jobs on which the future of the American work force depends.

The NAFTA, along with the labor and environmental side agreements, will also create the world's largest economic market and help the United States, Canada, and Mexico better meet the competition from the rest of the world in a manner that offers mutual prosperity to workers in all three countries and protects worker rights and the environment.

We are including in the NAFTA package a worker adjustment program to deal with the fact that although we think NAFTA is a net job creator, there will be some sectors in which there will be impacts and we want to make sure that all workers affected by NAFTA have the type of upfront assistance for finding new jobs, training, and income support necessary to move into new higher wage, higher skilled jobs; these are the type of things we would like to see all dislocated workers have in the future.

I also believe that the NAFTA provides a mechanism for dealing much better with immigration pressures of Mexico. As you will hear later in other panels, most serious research on the topic has concluded that freer trade and investment arising from the NAFTA will accelerate economic growth in Mexico, improve employment opportunities there, and subsequently reduce the push for immigration to the north.

The NAFTA, along with the supplemental agreements, also provides the foundation for increased cooperation between Mexico and the United States on immigration issues and specifically on the protection of migrant workers, which is explicitly covered in the labor side agreement. Thus, there is something related to immigration issues in the labor side agreement.

In my written statement to this committee I have described the commitments undertaken by the United States in chapter 16 of the NAFTA related to the temporary entry of business persons. These provisions permit the United States to gain the full benefits of freer trade, particularly for service industries and investors while maintaining our rights and ability to protect workers.

They are very similar to the existing provisions of United States immigration law associated with the United States/Canada Free Trade Agreement. There has been little or no adverse effect on American workers from these existing provisions that we have been

able to find, and we anticipate that none will occur as a result of NAFTA.

More details on these provisions are provided in my written statement.

I would like to devote the remainder of my brief statement today to discuss what I think the likely effects of NAFTA are on immigration. To reiterate what Commissioner Meissner said, it is going to help our ability to deal with problems related to illegal immigration. The labor side agreement further facilitates our ability to deal with these issues.

And while it is true that it is likely that immigration pressure in Mexico will increase in the near term with or without NAFTA, I conclude from research on this issue, looking at historical trends on what drives big increases in immigration, that the implementation of NAFTA is likely to reduce immigration pressure relative to what it would be if NAFTA is defeated, both in the short run and in the long run.

First, I turn to the labor supplemental agreement. The labor supplemental is based on the principle that cooperation and collaboration is the best way to deal with common problems of worker rights and common labor issues. And one of the areas explicitly covered in labor law and labor rights section of the labor side agreement is the issue of the protection of migrant workers.

All three of the signatory countries have undertaken the obligation to fully enforce laws with respect to the protection of migrant workers and have agreed to work on cooperative programs to deal with these issues.

I think the framework of the labor side agreement; that is, the new commission that will be established consisting of the labor ministers of each of the three countries, will provide a forum for improving cooperation on these issues and for dealing explicitly with some of the questions raised earlier. It will help make sure that laws to protect migrant workers—that is, that they have the same protections of all workers—will occur in all three countries. This will reduce some of the illegal activities associated with the expansion of immigration.

The labor side agreement recognizes the increasingly intermingled nature of agricultural work and many industries between the two countries. Cooperation is going to be needed and the side agreement explicitly takes a first step in that direction.

The final issue I want to talk about is what do we actually think NAFTA is going to do in terms of immigration flows. The problem we are facing is large, as Commissioner Meissner has said. Most estimates suggest that somewhere in the range of 1 to 3 million entries occur each year from south of the border. Most of these do not stay here very long, but as many as 100,000 to 250,000 have been estimated to permanently settle in the United States. That is not a huge amount relative to a labor force of 120 million, but obviously it is not geographically uniform. It is concentrated in certain areas and leads to adjustment problems.

During the 1990's, the Mexican labor force is expected to continue to grow at 3 percent a year. Without NAFTA and the accrued benefits from trade and the possible set back from NAFTA's defeat, it is unlikely that Mexico will be able to absorb all of this large in-

crease in the labor force, and there will be substantial pressure to continue current trends of increased immigration into the United States.

Additionally, the Government of Mexico is committed to agricultural reforms that will improve the efficiency and performance of the Mexican agricultural sector, but which may lead to some dislocation in the short run, but this will occur with or without the trade agreement. These reforms may contribute to some rural out migration. The extent to which this migration ends up coming north of the border as opposed to being directed to industrial and service sector jobs in Mexico greatly depends on the growth path of the Mexican economy.

Major change is required to reverse the existing pattern of growing immigration flows from Mexico. And it is clear that the primary motivation for illegal migration from Mexico is job opportunities north of the border combined with limited opportunities in Mexico.

Migration will only be substantially reduced if Mexican wage rates increase and if Mexican employment opportunities expand. Over the past decade, the Mexican leadership has implemented an outward-oriented, export-oriented strategy that is starting to pay dividends. This is a successful strategy that has been done in parts of Asia, in other parts of Latin America, such as Chile, and freer trade is a critical component for improvements in the Mexican economy.

Although the NAFTA may not generate sharp demonstrable changes in the immediate term, over the long term it is likely to be an important part of the solution to immigration difficulties. Finally, an important point is missing, notably from the academic research which I think is quite good on this topic, on what the likely impact of NAFTA is on immigration. And that point is that the NAFTA really is a continuation of a smooth policy with regard to United States/Mexico trade agreements and investment arrangements.

The implementation of NAFTA is not a sharp shock, but a smooth change that will lead to larger trade flows and to greater growth in Mexico. The likely large shock which could occur would be the defeat of NAFTA which would be a major discontinuous shift in what has been going on. And historical evidence suggests that the way you get very large jumps in immigration pressure over short periods of time is not from smooth gradual changes. There has been a large income disparity between the United States and Mexico for a couple of hundred years. That is not new. With NAFTA hopefully it will get better. It is not going to go away soon.

There are large income differentials throughout the world. Sharp changes in increases in immigration are associated with sharp shocks in the domestic market such as what happened in the early 1980's in Mexico with the debt crisis where there was a doubling of the number of apprehensions from the sharp adverse shock to the Mexican economy.

I am not arguing that one needs draw an apocalyptic scene about what the defeat of NAFTA means, but there is no one who has looked at the Mexican economy who doesn't think that in the short run the defeated NAFTA will lead to adverse reactions in financial markets and require some changes in exchange rate policy, some

changes in trade policies, and will lead, as we saw in the early 1980's, to changes that greatly affect agricultural workers and other low-wage workers.

And I think, as I illustrate in the graph, which is on page 16 of my testimony, this is likely to lead to a short-run increase in migration pressure to the United States, as we have seen in the early 1980's and, as we have seen historically if one looks at Ireland or other places in the 19th century.

It is short adverse shocks that are associated with short-term changes and this leads to speculation based on historical evidence. Over the longer run, the NAFTA will improve growth there. It will not lead to the sharp shock in the short run. The problems are difficult, but I think over the longer term and the near term, NAFTA is part of the solution and not part of the problem.

Mr. MAZZOLI. Thank you, Mr. Katz.

[The prepared statement of Mr. Katz follows:]

PREPARED STATEMENT OF LAWRENCE KATZ, CHIEF ECONOMIST, DEPARTMENT OF
LABOR

Mr. Chairman and Members of the Committee, I am pleased to testify before you on the North American Free Trade Agreement--better known as NAFTA--and grateful for the opportunity to declare my conviction that NAFTA will generate substantial economic benefits for American workers. I also believe that the NAFTA provides a mechanism for better dealing with immigration pressures from Mexico to the United States. Freer trade and investment arising from the NAFTA will accelerate economic growth in Mexico and subsequently reduce migration to the United States. The implementation of the NAFTA, along with the labor and environmental supplemental agreements, provide the foundation for increased cooperation between the United States and Mexico on issues related to migrant labor and allow us to better enforce immigration laws and cooperate with problems along the border.

In my testimony today, I would first like to address the provisions related to the "Temporary Entry For Business Persons" contained in Chapter 16 of the NAFTA. The Department of Labor was the lead agency for the negotiation of this chapter. The provisions of this chapter permit the United States to gain the full benefits of freer trade, particularly for service industries and investors, while maintaining our right and ability to protect American workers and ensure no adverse impact from free movements of business persons and professionals. I will then turn to how the labor supplemental agreement will enhance our ability to deal with problems related to illegal migration and the treatment of migrant workers. Finally, I will present a few general

observations on the likely impact of NAFTA on migration from Mexico to the United States. Although immigration pressure from Mexico is likely to increase in the near term with or without NAFTA, I conclude that the passage and implementation of NAFTA is likely to reduce immigration pressure relative to what it would be if the NAFTA is defeated and not implemented, both in the short run and the long run.

Temporary Entry for Business Persons

The preferential trading relationship created by NAFTA requires provisions to facilitate the movement of persons engaged in international business activity. Managers, executives, professionals and other qualifying business persons, who are citizens of NAFTA countries, may be temporarily admitted into the United States, Canada, and Mexico on agreed terms that permit these persons to engage in trade in goods, the provision of services, or the conduct of investment activities.

At the same time, the United States maintains its rights to protect the permanent employment of its domestic labor force. NAFTA countries also recognize the need to maintain border security. U.S. laws relating to exclusion and deportation of aliens will apply unchanged to business persons admitted under Chapter 16 of the agreement. The United States will continue to

require visas for temporary admission of business persons from Mexico.

The categories of persons who are eligible for temporary admission under the agreement correspond to those categories which are already part of U.S. immigration law. The same basic provisions found in Chapter 16 of NAFTA are already part of the U.S.-Canada Free Trade Agreement that has been in force since 1989 with no adverse affect upon employment in the United States.

Chapter 16 of NAFTA provides temporary entry for four categories of business persons:

business visitors engaged in international business activities related to research and design, growth, manufacture, production, marketing, sales, distribution, after-sales service, and other general services;

traders who carry on substantial trade in goods or services principally between their home country and the country they wish to enter, as well as investors providing advice or key technical services to an investment in which they have committed, or are seeking to commit, a substantial amount of capital in that country, provided that such persons are employed or operate in a supervisory or executive capacity or one that involves essential skills;

intra-company transferees employed by a company in a managerial or executive capacity or one that involves specialized knowledge and who are transferred within that company to another NAFTA country;

certain categories of professionals set out in NAFTA's Appendix 1603.D.1, who meet minimum educational requirements or possess alternative credentials and who seek to engage in business activities at a professional level.

I would like to talk now about two of these categories in more detail: traders and investors and professionals.

Traders and Investors

Under Annex 1603, Section B, Canadian and Mexican citizens are eligible for temporary entry as traders and investors. This category provides for admission under the existing requirements of section 101(a)(15)(E) of the Immigration and Nationality Act. That section, however, authorizes admission only on the basis of a treaty of commerce and navigation. The NAFTA is not such a treaty, nor does such a treaty exist between the United States and Mexico. Legislation is being introduced to accord admission status as traders and investors to citizens of Mexico. A similar provision was enacted into law to give trader and investor admission status to citizens of Canada under the U.S.-Canada Free

Trade Agreement. The bill would accord similar status to Canadians under the NAFTA as well.

Professionals

Section D of Annex 1603 requires the United States to provide for the temporary entry of Canadian and Mexican citizens to engage in business activities at a professional level. These provisions are nearly identical to those already in force under the U.S.-Canada Free Trade Agreement. We are seeking revisions to section 214 of the Immigration and Nationality Act in order to authorize the Attorney General to provide for temporary entry of these persons. This is a separate admission category that will be created for the NAFTA. Admissions under this provision will have the same legal status as the other nonimmigrant provisions of the Immigration and Nationality Act.

I would like to clear up one common misunderstanding. The NAFTA fully protects the ability of State governments to require that Canadians and Mexicans practicing a profession in the United States are fully licensed under State law to do so.

Persons may be admitted into the United States on the basis of a foreign professional credential. These persons may not, however, practice in a profession that is licensed in the United States on the basis of accreditation received in their home country.

Foreign personnel must be licensed under the requirements applicable in the United States in order to practice in a licensed profession here.

The provisions concerning admission of professionals under Section D permit the United States to establish a numerical limit with respect to professionals from Mexico for a transition period of up to ten years. A limit of 5,500 has been established for the initial year of the agreement. The United States may also impose certain procedural requirements--described in the next paragraph--on these admissions in this period. These provisions are designed to provide access for Mexican citizens on a gradual basis subject to certain requirements applicable to admission of these persons in our current law.

We are introducing legislation to create a new section 214(b)(3) of the Immigration and Nationality Act which would authorize the Attorney General to establish and maintain this numerical limit based on employer petitions. The bill would also require U.S. employers to file attestations under existing law that affects the admission and employment of nurses and specialty occupation professionals. These requirements concern statements as to the alien's wages and the conditions of work affecting the alien's employment.

The President will consult with this Committee and the Senate Judiciary Committee, as well as the appropriate advisory committees established under the Trade Act of 1974, concerning any proposed modification or elimination of these requirements during the transition period.

Summary of Temporary Entry Provisions

In summary, I would reiterate briefly the following points:

- I believe that the commitments undertaken in Chapter 16 permit the United States to take full advantage of the benefits of freer trade, particularly for service industries and for investors. It is essential that U.S. business persons be allowed to travel to Canada and Mexico to engage in international business activities. Chapter 16 provides safeguards to protect border security and permanent employment in the United States.
- Chapter 16, "Temporary Entry for Business Persons", is based on existing provisions of U.S. immigration law and is almost identical to commitments undertaken in the U.S.-Canada Free Trade Agreement. No adverse effect has resulted from these provisions and we anticipate that none will occur as a result of NAFTA.

- The Chapter contains provisions for progressive liberalization of the terms of temporary entry for professionals from Mexico. These provisions are based on the requirements of our current immigration law and may apply for a period of up to ten years. The President will consult with interested parties prior to making any modification in these terms during the transition period.
- The Administration will closely monitor the operation of Chapter 16 to evaluate the effectiveness of its provisions, respond to any unanticipated problems, and attempt to predict the impact of any future modifications. To that end, we will ensure that appropriate data are collected and made available in accordance with customary procedures. We will also consult regularly with, and seek the advice of, the appropriate advisory Committees and the Judiciary Committees of the House and Senate regarding temporary entry issues.

The Labor Supplemental Agreement

Under the labor supplemental agreement, cooperative programs will be established to promote improvements in labor standards in Mexico, Canada and the United States. In addition, the agreement establishes a variety of mechanisms to ensure national enforcement of each country's labor laws. In the case of migrant

workers, promoting and enforcing labor standards is important not only in its own right but also because it makes it difficult for industries to compete by periodically replenishing supplies of illegal immigrants who are willing to accept substandard conditions. Thus, better protection for migrant workers will help reduce illegal immigration to the United States by reducing the attractiveness of employing illegal workers.

The labor side agreement protects migrant workers in a number of ways. One of the objectives of the agreement is to promote the principle that migrant workers should enjoy the same legal protections with regard to working conditions as each country's nationals. In addition, each country's enforcement of its laws governing migrant workers is subject to oversight by the National Administrative Offices (NAO) of the other two countries. This enforcement may also be the subject of Ministerial Consultations and studies by tri-national ad-hoc Evaluation Committees of Experts (ECEs). The terms of reference of ECE studies include examining enforcement in light of the objective to provide migrants with the same protections as nationals.

Perhaps the most important provision of the labor supplemental agreement concerning migrants would allow cooperative programs on the subject. In the United States, about half of the migrant workers involved in seasonal farmwork spend long periods back at home in Mexico each year. The rotation of this workforce between

the two countries, and the role of labor market intermediaries in Mexico in recruiting migrants to work in the United States, mean that joint labor programs have unusual potential to improve labor standards and their enforcement.

The types of cooperation that could facilitate protection for migrant workers in both Mexico and the U.S. are many. They include cooperative research, facilitated by Mexican access to returning migrants when they are not on the job in the U.S. They include joint funding and planning of education programs--on language, health issues, or legal rights-- in Mexico during the off-season. Cooperation between the United States and Mexico could be particularly beneficial in those areas where the two countries compete with one another. For example, cooperation could include technical assistance in such areas as pesticide exposure in agriculture.

Given that the labor force and production in labor-intensive agriculture now irreversibly span both the United States and Mexico, it is hard to imagine how the problems of migrant workers could be dealt with absent more extensive binational cooperation. Rejecting NAFTA would make this cooperation much more difficult, at least for some time. To the extent that this permits substandard conditions to persist, it will hurt U.S. workers and fuel illegal migration of Mexican workers. Because they face limited opportunities in Mexico, lack information about their

labor rights in the U.S., and have little legal recourse, Mexican workers may work in the U.S. under substandard conditions.

NAFTA and immigration flows

Migration issues under the North American Free Trade Agreement were intentionally restricted to the negotiation of the temporary entry of business persons. But, as we all know, Americans also want to know what effect NAFTA will have on illegal migration. The North American Free Trade Agreement with Mexico and Canada is an integral part of our country's strategy to curtail illegal immigration. Indeed, in the absence of a free trade agreement with Mexico, other efforts to secure our border may be hard-pressed to bring about large reductions in illegal migration.

Although precise estimates are unavailable, the scope of the challenge facing us is formidable. For example, the General Accounting Office recently estimated that the number of illegal entries by Mexicans in 1988 fell somewhere in the range of 1.2 million to 3.2 million.¹ Not all these entrants worked in the United States during their stay, but many did. An important point to remember is that most of these entrants return home sooner or later. However, an estimated 50,000 to 225,000 illegal migrants from Mexico permanently settled in the U.S. annually

¹ This number overstates the number of individuals entering since some aliens made more than one trip during the year.

during the 1980s. In the context of a U.S. employment base of about 120 million today, these levels are not over-whelming. However, as we all know, immigration is not uniformly distributed across the United States. As a result, certain States, cities, and employment sectors are disproportionately affected.

Although these levels of illegal Mexican migration are likely to persist or even rise in the short run, regardless of whether NAFTA is approved, the plain fact is that these migration levels will be much greater without NAFTA than with it. During the 1990s, Mexico's labor force is expected to continue to grow at about 3 percent per year. Without NAFTA, the Mexican economy is unlikely to grow quickly enough to provide jobs for all of these new labor force entrants. The U.S. economy will remain attractive to Mexican workers. Thus, NAFTA is likely to reduce immigration pressure relative to what it would be without NAFTA.

In addition, ongoing economic restructuring and agricultural reform by the Government of Mexico are expected to continue with or without a trade agreement. These reforms are likely to contribute to rural Mexican outmigration in the short run, with or without NAFTA. With NAFTA, however, adjustment pressures may be eased through the proposed North American Development Bank (NADBank) which was announced by Treasury Secretary Bentsen last week. Up to ten percent of NADBank total loan and guarantee capacity will be earmarked for community-based adjustment

programs. Although the United States and Mexico will each decide how they will allocate these funds, it is likely that resources will be focused on communities and industries that face greater adjustment pressures. Thus, the NADBank offers a means to dampen migration pressures resulting from Mexico's economic restructuring and agricultural reform.

For almost a century, the establishment and development of "networks" between Mexico and the United States have been forged, such that a well-established Mexican migrant network exists. The strong migration links between our two countries make it difficult to curtail the flows of illegal immigrants across the border.

A fundamental change is required to reverse the established attraction of the United States to Mexican nationals. We know that the primary motivation for illegal migration is better job opportunities. Thus, migration will only be substantially reduced as Mexican wage rates increase and employment opportunities expand. Over the past decade, Mexico's leadership has implemented an outward-looking, export-oriented development strategy. This is not just an experiment in development: real world precedents for the success of this development approach can be seen in the emerging markets of East Asia and Chile. Freer trade is a critical component of these development efforts and NAFTA will assist Mexico in its jobs-at-home development

strategy. Aside from its other benefits, a fruit of the North American Free Trade Agreement will be reduced illegal migration from Mexico.

While we should recognize that the sensitivity of illegal Mexican migration to changes in Mexican and U.S. labor market conditions has not been the subject of extensive research, the available evidence suggests substantial sensitivity. Hence, although NAFTA may not produce demonstrable reductions in Mexican migration overnight, a U.S.-Mexican FTA will over time diminish entrenched migration tendencies. Most academic experts who have considered NAFTA's impact on Mexican migration concur with this view. Dr. Philip Martin of the University of California, Davis concludes that "economic growth and development, accelerated by free trade and investment, is a proven strategy for stopping unwanted migration." Similarly, Dolores Acevedo and Thomas Espenshade of Princeton University conclude that "narrowing the large wage and unemployment differentials [between Mexico and the U.S.] will substantially reduce the [Mexican migration] flow."

I believe you will hear a rather consistent theme emerging from today's hearing--that the development of the Mexican economy is an absolutely essential element if illegal migration flows from Mexico are to be curtailed in the long run. /

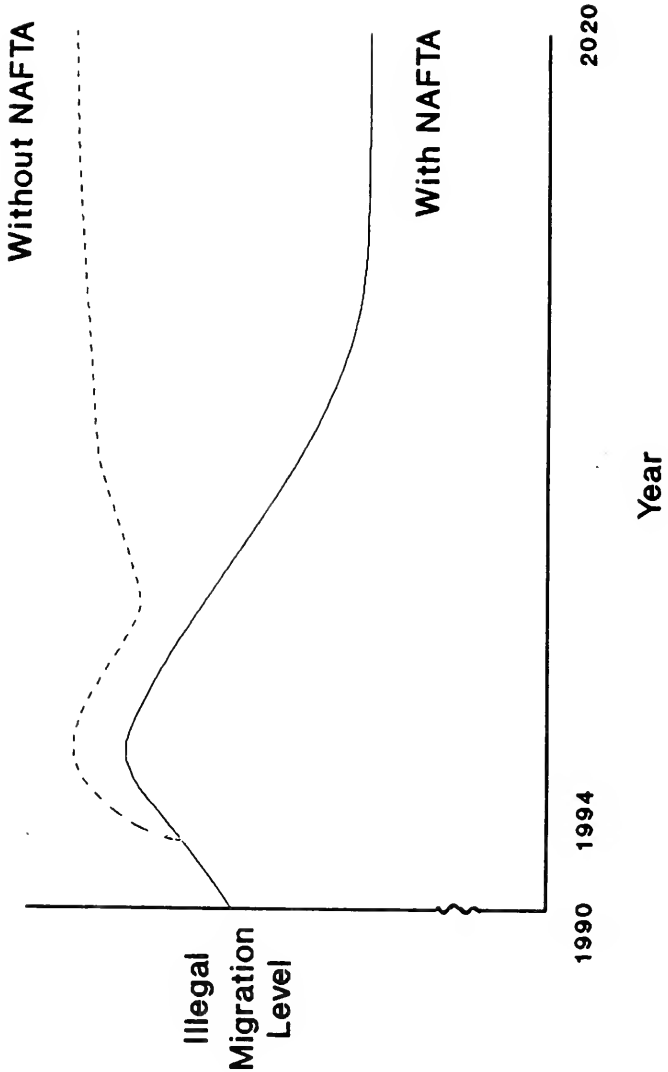
Additionally, the North American Free Trade Agreement is likely to reduce immigration pressure from Mexico in the short run relative to what it would be if NAFTA is defeated. Changes in migration flows tend to be triggered by shocks to the economy. We have already seen this situation occur between shocks to the Mexican economy and subsequent increases in illegal migration from Mexico. Perhaps the best example was the 1982 Mexican economic crisis triggered by the drop in world oil prices. The numbers of "deportable Mexican aliens located" by INS' Border Patrol rose dramatically from an annual average of 776,000 for 1980-82 to 1,133,000 for 1983-85, an increase of over 46 percent.

Year	Mexican deportable aliens located
1980	734,219
1981	797,923
1982	795,362
1983	1,076,345
1984	1,104,429
1985	1,218,695

Source: 1986 Statistical Yearbook of the INS

Failure to pass NAFTA, and the possibility of the worsening of the Mexican economy that might ensue, could bring about a shock that actually stimulates additional migration pressures from Mexico. The graph on the following page illustrates my point--by contrasting the likely scenarios of what will happen with or without NAFTA's passage. If we fail to pass NAFTA, the undermining of confidence in the Mexican economy will result in a shock that is likely to cause large increases in illegal migration to the United States, similar to the situation of the early

Illegal Migration from Mexico, With and Without NAFTA
A Qualitative Projection



1980s. Ongoing economic restructuring and agricultural reforms by the Government of Mexico--which will continue with or without NAFTA--will contribute to rural Mexican outmigration, but will occur without the safety net of NADBank's community-based adjustment programs.

The graph further illustrates three points. The first point is that the ongoing economic restructuring and agricultural reform in Mexico are expected to continue with or without a trade agreement. This may increase migration pressures in Mexico in the short run, regardless of whether NAFTA is approved. Second, rejection of NAFTA will result in a large negative shock to the Mexican economy which will cause migration levels to rise sharply. Third, the implementation of NAFTA will cause the Mexican economy to grow faster and, therefore, create more jobs in Mexico. Thus, NAFTA is likely to reduce immigration pressures relative to what they would be if NAFTA is defeated, both in the short and in the long run.

Several economists have projected that NAFTA will increase illegal migration to the U.S. in the short run. However, this increase is likely to be small and, more important to remember, it will be a smaller increase than if NAFTA were defeated. Predicted increases in migration are largely based on projections of what would occur as a result of the elimination of Mexican import quotas on corn. NAFTA provides for a phase-out of the

corn quota over a 15-year period, the longest phase-out within NAFTA. This will minimize any negative migration impacts. Second, the ongoing economic restructuring and agricultural reform by the Mexican Government are expected to be balanced by a number of programs to ease any short-term job dislocations. Third, many projections do not take in account the effect of the shock to the Mexican economy that is likely to occur if NAFTA is not passed. As we have seen in the past, such shocks can result in considerable increases in the flows of illegal migrants to the United States.

In 1986, a bipartisan effort enacted the Immigration Reform and Control Act (IRCA) to control illegal migration flows. A centerpiece of this legislation is the imposition of fines on employers who knowingly hire unauthorized aliens. Both the Immigration and Naturalization Service and the Department of Labor enforce these efforts to curtail illegal employment opportunities on this side of the border. However, success in slowing the flows of illegal migration is difficult to attain solely through unilateral actions. Congress recognized this and, as part of IRCA, established the Commission for the Study of International Migration and Cooperative Economic Development to examine mutually beneficial cooperative trade and investment programs that alleviate conditions contributing to illegal migration. One of the key recommendations of the Commission was "[t]he United States should expedite the development of a U.S.-Mexico free trade area, and

encourage its incorporation with Canada into a North American free trade area."

The North American Free Trade Agreement is essential if we, as a nation, are ever going to curtail the flows of illegal migration across the border. Efforts to curb the attraction of U.S. employment opportunities must be strengthened by efforts to reduce the "push" of poor economic conditions in Mexico. Clearly, the North American Free Trade Agreement is a critical element of any strategy to decrease illegal immigration.

Mr. MAZZOLI. And let me yield my time to get started. On page 15 of your statement sounds pretty apocalyptic to me. If we fail to pass NAFTA, the undermining of the confidence in the Mexican economy will result in a shock that is likely to result in large increases to illegal immigration into the United States. If that is not apocalyptic, it is like when I hear President Salinas say if you don't let us export goods, we will export people.

That is a kind of a veiled threat. Do you stand behind that statement?

Mr. KATZ. Those might not be all the right adjectives. We have evidence in 1982 from what happened when Mexico had a serious economic shock. I do not think that the defeat of NAFTA will be 100 percent of the 1982 shock, but I think it would be substantially as large and the evidence—

Mr. MAZZOLI. Let me be sure that we are speaking from the same page of the book. I have heard several comments that we must do this because if we don't, then something is going to happen at the border. We must do this because if we don't pass NAFTA, we are going to have increased immigration illegally.

There is always the idea of what just happened at El Paso. That is always the idea. You always have the ability to harden and enforce the activities at the border. So we can't say that unless you pass this, it is all gone because it is a matter of resolve. Now, whether or not the resolve of the Nation is to do that, I will leave to the future and the experts and the people who run the Immigration Service and the Justice Department.

But we can't say that we are between NAFTA and nothing but an Armageddon scenario where great groups of people are going to be clamoring to come into the country. I think until we reduce that rhetoric, until we reduce the black and white depiction of this, I think it is very tough for us to figure out where we are.

Why wasn't something said in the NAFTA about Mexico controlling the illegal criminal activities on its side of the border which lets people into the United States illegally?

Mr. KATZ. I apologize, if my language is apocalyptic. That wasn't the approach. It was trying to be a statement of what I believe historical evidence suggests.

Mr. MAZZOLI. I appreciate that.

Mr. KATZ. I think it is not completely accurate to say that the NAFTA and the side agreements don't deal at all with the immigration issue. Explicitly in the labor side agreement there is coverage of the protection of migrant workers and there are cooperative activities set up there to deal with issues concerning immigration.

Mr. MAZZOLI. I was going to ask Ms. Meissner the same situation. You all seem to have come from a very important meeting on these issues. What was this meeting and what were these issues?

Mr. KATZ. I wasn't at that meeting.

Mr. MAZZOLI. You weren't invited either. I wasn't invited, obviously. Tell me about these things that were in the side agreement. You did refer to those.

Mr. KATZ. The side agreement is essentially about labor law. This is defined in the side agreement as covering a broad set of issues related to the labor market.

One of those issues is immigration and the protection of migrant workers.

Mr. MAZZOLI. I understand. We worry about the Mexican workers and we certainly worry about migrant labor, and certainly we have to take care of the official responsibility that we have in this hemisphere to help people have a better life.

But we have Americans on our side of the border that have a little bit of something to say too, and I haven't heard them mentioned very much today. Tell me, what are these side agreements dealing with workers and what are we concerned about?

Mr. KATZ. Well, the side agreement, you know, very explicitly deals with U.S. workers. It is about making sure that all three parties enforce their labor laws. It is about cooperation among the parties on improvements in labor standards, including the protection of migrant workers as well, and making sure that migrant workers are treated equivalently as they are officially in the laws in all three countries, about cooperation to deal with the lack of enforcement of labor laws of which immigration issues are a part.

And finally we have seen a signal in dealing with labor market issues in Mexico from President Salinas in which the action he has taken to deal with what had been a decline in the minimum wage there, they have undertaken a commitment to increase the minimum wage in the future in lock step with productivity gains.

Mr. MAZZOLI. That helps. I have a letter here, September 23, from Secretary Reich concerning some changes that he would like to see in the H-1(B) law, which allows professionals to come in. If I understand, the TC program with Canada is patterned along the lines of the H-1(B) program, and apparently it is letting too many people into this country for employers who are playing the game by not really needing people, not trying to retrain U.S. workers.

Is it not inconsistent for us to be asked to set up a TC program with Mexico when the pattern for that program has already shown to be a problem according to Secretary Reich's letter?

Mr. KATZ. We agree that the current H-1(B) program does have a number of problems that we have tried to address. None of those problems have been found involving the TC program from Canada. Those are in the regular H-1(B) program.

Two, many of the occupations for which the problems seem to have been the worse, such as computer programmers, are not covered under the professionals listed in the agreement with Mexico concerning the professionals.

Mr. MAZZOLI. I am going to come back to that. I am going to ask if we know where these TC people are in the United States.

The gentleman from Florida.

Mr. CANADY. Thank you, Mr. Chairman.

Commissioner Meissner, I have a couple of questions that I would like to ask. In your comments I believe you indicated that the NAFTA offers the best hope we have of success in curtailing illegal immigration from Mexico.

Am I correct in understanding that to be your testimony?

Ms. MEISSNER. In the long term, yes.

Mr. CANADY. Do you really believe that the enactment of a NAFTA would be more effective in that regard than would be the

enactment of effective and reliable ways of ensuring that illegal aliens in this country are unable to obtain employment?

Ms. MEISSNER. I don't see those as either/or propositions.

Mr. CANADY. I am not suggesting that they are. But you said in your testimony that this would be the most effective way of curtailing illegal immigration, and what I would suggest is that there are other ways that we could do that.

And quite frankly, I would suggest that if we can come up with a way of ensuring that illegal aliens are not given jobs in this country, that would be more effective. Obviously it is going to depend on how reliable those mechanisms are.

But if we can come up with a reliable mechanism for doing that, it seems to me that that would be more productive—over the short and the long term—than the speculative consequences of the NAFTA. If you would address that, I would appreciate it.

Ms. MEISSNER. When I said I don't think of it as an either/or proposition. I was leading to the thought that I think there are a range of responses to illegal immigration. And in talking about NAFTA as the most effective response in the long term, I was speaking of that in relation to the economic pressures from Mexico that lead to illegal immigration.

We know that illegal immigration is a result of a variety of pressures. Some are what have traditionally been called push forces from Mexico and others are pull forces in the United States. Where pull forces in the United States are concerned, the workplace is critical. And I think we must have effective workplace enforcement. I think we must have effective border enforcement.

There are also kinds of approaches and responsibilities on the enforcement front to the pull forces that exist in the United States. But where the push forces are concerned, where the reasons for illegal immigration from Mexico are concerned, ultimately, the best response obviously is growth in jobs in Mexico.

And NAFTA is the best thing we have to offer in that regard.

Mr. CANADY. Well, I understand that. I appreciate that comment. I guess my perspective on that is it takes a combination of push and pull, and if we eliminate the pull factor—I mean, people will not come here unless there are job opportunities—if we can address that, I think we have come a long way.

Let me ask you another question. You indicated that there is a relationship between an increased level of legal immigration and an increased level of illegal immigration.

Did I understand you to say that as we have increased the level of legal immigration into this country, at least with respect to Mexico, that has itself led to higher levels of illegal immigration; is that what you said?

Ms. MEISSNER. What I was trying to illustrate was the fact—

Mr. CANADY. Well, is that what you said?

Ms. MEISSNER. Yes, that is what—yes, yes. The point is, of course, that legal immigration and illegal immigration are often quite mixed. And when people come to the country legally, they often want to bring with them people that can't come legally under the law. And so you have you know, through the family networks and kinship networks that produce and sustain migration, you

have a mixture of legal and illegal, and so it was trying to speak to that point.

Mr. CANADY. Let me follow up on that, and this is not directly related to NAFTA, but would you think at least in some circumstances it might be helpful to reduce legal immigration as one way of curbing illegal immigration?

Ms. MEISSNER. Well, I think as all of these things are, they are very complicated relationships. It is very important for us to have an effective legal access for Mexico for immigration into the United States.

The economies are interlinked and the countries are interdependent and there simply is going to be movement. That is part of the economic relationship. It is part of the geography. So it is very much in our interest to channel that in legal ways as much as we possibly can.

But we have to recognize that in so doing, there will be a margin of illegal immigration as well.

Mr. MAZZOLI. I want to thank the gentleman. He, I am sure, was an excellent lawyer in private life because he asked a very good question.

I, as a rejoinder to the Commissioner, would say that this brings up the point that we have been saying for years: Unless we control illegal entry, our legal immigration programs are going to be in trouble.

The more legal people come in, the more they have family, the more the people want to come in to join up for one reason or other. Why wasn't something done in the NAFTA to recognize that reality, that unless we control illegal entry, the syndicates and the gangs and the smugglers, we are going to lose our legal program.

We are going to lose asylum, and I think the gentleman from Florida has pointed out a very important point. I would urge you not to say that unless we pass NAFTA, it is all over, because NAFTA may not pass.

I hope that all of you in your areas of Federal law are planning what happens if. President Salinas is looking all over the place for alternatives. We better have some plans for what happens if, because these scenarios are not rosy.

Many on this subcommittee want to defend legal immigration programs. Many of us do not think there are too many people entering the country legally but we are convinced that too many people are entering illegally. They are jeopardizing the ability we have to hang on to the legal programs.

The gentleman from California.

Mr. GALLEGLY. Thank you, very much, Mr. Chairman, and I apologize for coming in here late, but I have mastered the art of being in two places at once, but I haven't figured out three yet.

Mr. MAZZOLI. That is between bilocation and trilocation.

Mr. GALLEGLY. And so as to not repeat some of the questions that were asked—I have one question for Commissioner Meissner, and I welcome her on board because we have been waiting a long time to have someone, and I am really encouraged with your appointment. I am sure you are going to be addressing this issue that many of us view as a very critical issue in the United States, that of illegal immigration.

I am a little confused about your statement as it relates to illegal immigration and NAFTA.

There was a story 3 or 4 weeks ago in the Washington Post, and of course if it is in the Post, it has to be accurate, and having said that, they quoted your position—and I should have brought it over with me. I don't remember if it was a direct quote or referencing your position or statements over a period of time.

But they referenced your assessment of NAFTA and illegal immigration as stating that if NAFTA passes, it will increase the flow of illegal immigration for the next 20 years.

Now, are you familiar with that story? And is it accurate? Or is your statement earlier about improving the situation long range after 20 years?

Ms. MEISSNER. I think I know what you are referring to, and it is consistent with what I have said here today. And what I have said here today is drawn largely from a number of places, but largely from shorthand Asencio Commission. You will be hearing from those people in the next panel.

But it is the generally accepted view that development in the short term can stimulate migration. And where the short term is concerned, the short term in development terminology can tend to be 20 years.

So what we have been talking about in terms of the short to medium term, in other words zero to 20-year potential impacts of NAFTA, are that we believe effective immigration law enforcement and effective controls and regulations of immigration flows remain absolutely an essential part of our overall immigration, you know, regime.

But, that in the long term, we have to find some ways to respond to the basic inequities between the United States and Mexico, and NAFTA can do that.

Mr. GALLEGLY. What you are saying is that for the next 20 years—for the next 20 years if NAFTA passes, we can expect an increase due to NAFTA's passing—of a flow of increased illegal immigration?

Ms. MEISSNER. The next set of statements then has to be made—

Mr. GALLEGLY. I would like to get an answer to that if that is correct.

Ms. MEISSNER. The word is could. It could increase for the next 20 years. That is a whole other conversation. But at the same time, what we know about what is going on in Mexico, and this is also part of the testimony, is that the source of this migration is largely the agricultural sector in Mexico, and the trade agreement tries to mitigate that by having a long phase-in period where agriculture is concerned.

And the Mexican Government is taking a series of steps to respond to what is an agricultural revolution within Mexico to try to diminish those pressures. But we are talking about economic development and economic development does involve migration.

So we need to be prepared to try to mitigate that as much as possible and to have it stay within Mexico.

Mr. GALLEGLY. I don't mean to belabor this, but so that we have an understanding of what long range and short range mean, your

definition of long range would be after 20 years or short range would be up to 20 years?

Ms. MEISSNER. Well, I think one cannot be absolutely categorical.

Mr. GALLEGLY. It is obviously not 5 or 6 years. It would be closer to 20 than 5. What is a definition of the end of a short range?

Ms. MEISSNER. I think you will want to question the next panel on this point too, and I hope you do. But basically 10 to 20 years, I think, is the fair terminology.

Mr. GALLEGLY. Fair terminology for short term would be 10 to 20 years?

Ms. MEISSNER. That is right. And we are talking about fundamental change.

Mr. GALLEGLY. That is a very difficult mindset for Americans who are all focused on instant gratification, if you will.

Ms. MEISSNER. That is exactly why I said in the testimony and we say in all of these discussions that effective enforcement where the pull forces are concerned remains a critical part of the formula here. Nobody is promising NAFTA, where immigration is concerned, as a quick fix or anything that is going to change what we need to address on a day-to-day basis right now.

Mr. GALLEGLY. Just one other quick question. You are saying—if we are going to have this increase—we are going to deal with this through enforcement.

On September 16, I sent a letter to the President and it was signed by 22 Members of the House. I wanted this letter to be from people who were otherwise viewed as pro-NAFTA or at least leaning toward NAFTA. There happened to be two names that have been anti-NAFTA people all along I apologize for a couple of names getting on there.

So for all intents and purposes, 20 of the 22 names on this letter to the President gave him specifically no position on the issue of NAFTA: While we have been long-time supporters of free trade, if specific things are not guaranteed, either legislatively or incorporated in the side agreement as it relates to illegal immigration, don't count us as supporters of NAFTA.

And I have not had any response on that. You talk about—with the increase—we are going to be able to deal with it effectively I think it is important that we hear back from the administration on the letter that we sent.

Ms. MEISSNER. I am unaware of that letter.

Mr. MAZZOLI. It is going to be enforcement that is going to determine how few or how many of these illegal immigrants are going to reach our country.

Two things, one is the gentleman from Florida, Mr. Canady has said, employer sanctions. Somehow we have to improve the effectiveness of employer sanctions, which is one way we eliminate the pull factor and clearly there has got to be enforcement at the border.

What are we going to do? Are we going to sit back and do nothing more than we have been doing and accept this as an inevitable process of hemispheric change or do we do something?

The gentleman from either California, if he wishes to extend his thoughts, or the gentleman from New York.

Mr. BECERRA. I am willing to yield to the gentleman from New York.

Mr. MAZZOLI. The gentleman from New York.

Mr. FISH. Thank you. I won't be long, Mr. Chairman.

We welcome Commissioner Meissner. We welcomed her to this subcommittee in a great many capacities both in and out of Government, and it is delightful to have you back here.

Ms. MEISSNER. Thank you.

Mr. FISH. On the subject that you and the chairman were discussing, I understand that you are on record as favoring what Father Ted Hesburgh and I were advocating a dozen years ago; namely, an employment identification—tamper-proof identification card—that an American citizen or one eligible to work in the United States would present at a time that he or she was seeking employment in the United States; is that not correct?

Ms. MEISSNER. I am not sure I have ever gone on record on cards specifically. What I feel strongly about is the need for effective workplace enforcement and the need for effective ways of achieving that workplace enforcement.

The weakness in the present system is the method by which employers determine who is legal and who is illegal. I think we need to have a discussion about that. I hope—I am glad to know that the committee is interested.

You know for the purposes of NAFTA in this hearing, you know, I agree with the gentleman from Florida, that workplace enforcement remains an important element of the overall response.

Mr. FISH. OK, now, Mr. Katz, I gave you a copy of Commissioner Meissner's testimony, and on page 2, in summarizing the essential links between NAFTA and immigration, she says:

The new jobs in Mexico will strengthen their economy, which will provide the best single solution to the flow of undocumented workers into the United States.

As a representative of the Labor Department, how do you read the reference to new jobs in Mexico? What do you think that means? What new jobs?

Mr. KATZ. What I read, the whole point of expanding trade is to improve the economic situation on the continent. We are not talking about a zero sum game. There are not a fixed number of jobs between the parties here.

I think that most analysis shows and what most historical experience with expanding trade suggests, that the North American Free Trade Agreement, as in other attempts to allow countries to better specialize and to improve arrangements and to deal with growing markets, will lead to more jobs on both sides of the border. And I think that is an accurate analysis.

Mr. FISH. Of course, Mr. Katz, you are familiar with the challenge put forth by many who are not in favor of the NAFTA agreement, that new jobs in Mexico will be old jobs in the United States that have been moved down there to take advantage of cheaper costs—and the new jobs in Mexico will be at the expense of jobs in the United States.

If I understand your answer, and I would like you to elaborate a little further on this, new jobs to you are jobs that are created because of trade between the two nations, not because of movements of industrial plants to Mexico; is that correct?

Mr. KATZ. What I mean is that new jobs will occur in Mexico as Mexico grows. Growth has been associated with an expansion in trade. What the North American Free Trade Agreement essentially does is open a closed Mexican market to United States goods, and allows us to export higher wage, higher skilled types of goods to Mexico. Most analyses find that we are likely to have an increase in exports. As the history of the last 70 years has shown us when Mexico has been liberalizing, a large increase in export jobs which pay higher wages than the rest, occurs in the United States. Mexico also benefits from expansion and growth.

Some of the job growth will be associated with changes in investment patterns, but most of the investment in Mexico is going to be internally generated as the economy grows.

Mr. FISH. Thank you very much.

Mr. MAZZOLI. I thank the gentleman. While there is still time, I think it is important to note that that is one of the great concerns that people have and that is that once you go behind the numbers with current trade with Mexico, a lot of that is in capital goods and investment in green field operations in Mexico which are probably as efficient as what we have here.

The gentleman from California.

Mr. BECERRA. And I only have a couple of questions. I am not certain if Commissioner Meissner or perhaps Mr. Katz would better be able to answer this, but let me ask the question.

It seems that most analyses indicate that there will be some displacement on this side of the border, lower skilled jobs, the garment industry, some agriculture, maybe food production or food processing, jobs which are typically held by lower paid, lower skilled individuals, oftentimes immigrants, legal or otherwise.

If you agree with the premise that there will be some displacement in those jobs, yet we will see an increase in migration by individuals who presumably will have low skill levels and would seem to seek out those types of jobs, how do we address that?

If there is an influx short term of undocumented immigrants, yet there is a displacement or a loss in the number of jobs available in those areas that these immigrants might typically reach out to, what will happen to them? And why would they continue to come, if those jobs weren't there?

Mr. KATZ. I think that we have to have a sense of magnitude here. Most analysis suggests that NAFTA will have a net positive impact on job creation, certainly in the short and medium run in the United States. Certainly some sectors, the ones that you named, may experience some displacement.

But the thing we have to compare is the magnitudes. Every year in the United States there are more than 9 million workers who switch jobs, more than 2 million workers who are permanently displaced. Any estimate of the effect of NAFTA is tiny. There are certainly trends in the U.S. economy that have shifted labor demand away from less educated workers. We have also seen a large decline in real earnings for less educated workers in the United States over the last 20 years. This is something we are deeply concerned with and something that we very much think we need to have policies having to deal with the school-to-work transition, worker adjustment programs, with investments in workers.

The question is: What is the net effect of NAFTA on that situation? I think in the short run, as I noted before in talking about immigration, the defeat of NAFTA also has some risks on the side of displacement. It disrupts existing trade patterns and will lead to the displacement of some of these same type of workers, probably as large as would occur if NAFTA is passed.

Over the longer run if NAFTA is passed, what you are likely to see if you look at the types of jobs based on exports from the United States versus the types of jobs where imports are likely to come in, is a shift in jobs toward those that pay higher wages for workers of similar skills.

So the key goal is trying to facilitate the reallocation of people, because we are looking at an expansion of jobs that demand similar types of workers, but pay higher wages, 13 to 15 percent by most estimates.

We have proposed a worker adjustment program to deal with all NAFTA-affected workers whether they are directly affected or secondarily affected that will provide the type of upfront job assistance, the type of retraining, and the type of income support that will facilitate those movements.

Immigration pressure is certainly here with or without NAFTA, and that is something that needs to be dealt with. The problems without further investment policies are not tremendously optimistic with or without NAFTA. I know it is a step in the right direction, it is not a panacea.

Mr. BECERRA. Let me ask my final question to the Commissioner.

By the way, Commissioner, congratulations on your appointment and much success is hoped for you, and we look forward to working with you.

You mentioned in your comments that there is a need to do a better job enforcing our workplace standards, our labor laws.

If, in fact, we are going to see, at least short term, an increase in undocumented immigration into this country, that again also assumes that that means that our border enforcement work will still not be sufficient to stop the flow.

Any comments on what we then have to do in terms of workplace enforcement to address the issue of undocumented immigration?

Ms. MEISSNER. First of all, I don't think we should operate on the assumption that there will be increases in illegal immigration. We are saying, there could be. I mean, we know that there are—we know what happens in these kinds of areas. We know what the linkages are between American and Mexican labor markets. But I am not operating under the assumption that there will be increases. I am operating under the assumption that we have strong migration pressures from Mexico, that we need to be addressing them in the long term. And I hope that we will have NAFTA as the vehicle to do that but that we need to be continually improving our enforcement programs.

And we are doing that. We are putting significantly additional—significant additional numbers of people out on the border. We are improving our technology all of the time. We are improving our information systems. I do not—I would hope that the committee would not leave this hearing with any view that there will be

greater illegal immigration coming into the country. We are preparing to counteract the possibility of greater pressures.

Now, where the mix of enforcement is concerned, I think you have to have a variety of responses to relieve immigration pressures; and to some extent, that is because illegal immigration is not solely a Mexican phenomenon. We have illegal immigration from many countries in the world. The illegal immigrant population in the United States is only about half Mexican. More than half is from other countries.

So we are talking not just about a Mexican border phenomenon. We are talking about a global phenomenon. And that takes measures at the border, but it also takes a variety of other things which include, in my view, the workplace.

Mr. BECERRA. Thank you.

Thank you, Mr. Chairman.

Mr. MAZZOLI. Thank you very much.

Let me yield myself a second 5 minutes. But your statement right now, Madam Commissioner, seems to be a little bit in discord with what was testified by Mr. Katz and Ambassador Yerxa about all the studies that we will hear about soon from the other panelists that, short term, there is going to be an increase in pressure and some say an increase actually in illegal immigration if NAFTA is not adopted. But it seems that is a little bit different than what the tenor up to now has been.

But let me go to what I really want to ask, really two different questions. One is: Tell me if this specter that is growing in my mind is just that, a specter, has no foundation in reality, NAFTA is agreed to, there is a short-term buildup of pressure which yields illegal immigration into the country, in excess of what would be normally expected.

We decide we are going to do another El Paso or we decide to enforce at the border. A complaint comes from Mexico City directed to Washington: Lay off. This is not the way friends ought to treat one another. As a result of this new relationship we have. Tell me how wrong I am.

Ms. MEISSNER. Well, I think you are wrong. I think that the Mexicans have always recognized—acknowledged our right as a sovereign nation.

Mr. MAZZOLI. They didn't in El Paso. There was a specific complaint lodged about what happened there.

Ms. MEISSNER. Well, complaints lodged and what we do are two different things.

Mr. MAZZOLI. They apparently don't agree that what we do is enforce our law, and that is our responsibility and our right.

Ms. MEISSNER. Well, I think there are all kinds of procedures of comity that one observes.

Mr. MAZZOLI. That is a word he had written down was comity, because when you have comity, you may not be able to enforce your own law.

Ms. MEISSNER. I don't agree with that. I think that the situation in El Paso was one where a local, a local initiative suddenly became a national issue. And nobody really recognized either, on the Mexican side or on the United States side, what interests would be attracted to it. All the Mexicans.

Mr. MAZZOLI. Assuming that a policy like that was agreed to, that was the policy of our country, so you think that there would never be a situation in which we would be dissuaded from enforcing our law because of this new relationship?

Ms. MEISSNER. I actually think it is quite the opposite. I really do believe that where—

Mr. MAZZOLI. All right. Tell me about that meeting you all had today. Who was there and what was going on? How come I wasn't invited?

Ms. MEISSNER. You are covering the issues that we discussed. I mean there is a binational commission that exists to deal with migration issues. It so happened that we had a meeting today.

There was a lot of discussion about border enforcement issues, what the Mexicans asked for, and I think legitimately asked for, is that they be advised of what we are doing so that they—because they are sensitive public issues in their own country, just as there are public and political issues in our country that surround these issues.

We are always working at ways to be advising each other as effectively as we can. But I think that the interesting thing about this meeting is that it was indicative of something that I think all of us have noticed since the Salinas administration came in, and that is a very dramatic change in the overall approach that Mexico has taken to the United States where migration issues are concerned. Mexico is now in a situation where they are experiencing migration pressures in the same way that we are. And they are no longer simply a sending country. They are also a receiving country. And they understand and recognize that these kinds of pressures require a variety of responses, of forms of cooperation that were not on the table before.

Mr. MAZZOLI. So you are saying that these agreements that you reached today or something is going to yield, because there have been deals like this many times over the years, contacts that were there when Mr. Nelson sat in your chair and others? They apparently haven't yielded a whole lot, because nothing is in NAFTA.

Ms. MEISSNER. Whether or not something like this should be in NAFTA is a fair question. I can't tell you why it was not in NAFTA. But I can say that NAFTA, after all, is a trade agreement. It is not a law enforcement agreement. It is not a comprehensive treaty between two countries. And I think that—

Mr. MAZZOLI. Those going to be announced tomorrow, is that going to deal with something concrete with a timetable in it?

Ms. MEISSNER. No.

Mr. MAZZOLI. OK. Well, I appreciate it.

Mr. BECERRA. If the chairman will indulge me for just one question. The chairman broached some interesting subjects, especially with regard to the border enforcement along the border with the city of El Paso.

Commissioner Meissner, my understanding—I had a chance to be in Mexico about a month ago to discuss the whole issue of immigration with a number of individuals in the area both from Mexico and from the United States.

It seemed to me that the greatest concern raised by the Mexicans was that this action was taken in a sense without any discussion,

notice; and it abrogated an ongoing relationship between two very close cities. And they were taken aback by the abruptness of the measures.

Now, whether or not they would try to do anything to stop us from enforcing our sovereign laws and our relations, I am not certain. But my question to you is—at least my understanding is that there was very little discussion between the two governments with regard to that particular action.

If that is the case, how would you proceed now as the Commissioner for the United States on the issues of immigration? What would be your tack in approaching the Government of Mexico when it comes to those types of border enforcement activities or any other border enforcement activities?

Ms. MEISSNER. Well, first of all, where the El Paso situation is concerned, there was notification. Our Border Patrol people notified the Mexican consul, notified local officials, did all of the notification that we required and that we have agreed with Mexico is appropriate in local situations.

What happened in El Paso is that, what was a local operation and what was treated as a local situation suddenly became a national story in both countries. And that is something that we did not anticipate, nor did the Mexicans anticipate that. We have now come to understand that things are clearly sufficiently sensitive at this point, that what in the past would have been viewed as a local activity has broader ramifications. And we have worked out ways to try to treat that appropriately.

All the Mexicans are asking is that they be advised. They are not asking to meddle.

Mr. BECERRA. One last question, or more a comment than a question. I know that the Mexican Government, the people of Mexico, are very concerned as well with the treatment of Mexicans in this country. Whether they are here with legal documentation or without, there is a perception—and I know in many cases rightfully so—that oftentimes Mexican immigrants, whether you put a label of legal or illegal upon them, are not always treated with the dignity that any human being deserves, whether it is here in the United States or in Mexico.

I know that they have raised that concern, and I have raised that concern as well. No one who is here without documentation has the right to be here, but no one has the right to abuse an individual just because the person is here in violation of our immigration laws.

Any thoughts on this administration, your administration within the INS, when it comes to protecting the human rights of individuals who are here whether they are here with or without documentation?

Ms. MEISSNER. Well, the issue of human rights protections and of the potential for abuse of undocumented people is a perpetual and difficult issue.

I mean the very nature of being undocumented makes people obviously be more vulnerable to abuse. But at the same time, obviously in no way do we sanction that. And we need to do everything we can within the Immigration Service, as well as more broadly within the country, to counteract the potential for that.

I am not prepared today, frankly, to talk in detail about what we intend to do; but I will be prepared in the very near future to lay out some plans.

Mr. MAZZOLI. Will the gentleman yield?

We had a hearing on a bill offered by the gentleman which deals with this very question of overreaching and inappropriate activity, even illegal activity by the Immigration Service, Customs people, and what have you. I have a recollection that the gentleman indicated that he was going to seek information and advice from the Government about what really was going on, because the argument that was made here to us was that we have things happening now which will obviate the need for the gentleman's bill.

I just would only say that if there is anything that is yet in the process that the gentleman had requested, I personally would urge you to get that information to him so that he may decide what he wants to do with his bill.

Mr. BECERRA. I appreciate that, Mr. Chairman.

Ms. MEISSNER. We have had a very good conversation already on this. And we will be coming forward with this information.

Mr. MAZZOLI. I have one last question.

If I understand correctly, Mexican nationals can enter under two of the four categories today. They can enter as B-1's and as H-1's. They cannot enter now as a TC, which is provided for under the NAFTA. They cannot enter in the E categories as investors and traders. Is that correct?

Ms. MEISSNER. Yes.

Mr. MAZZOLI. So in the implementing legislation, there will be law changes for the E categories on investors and treaty traders. There will be a new TC category set up for Mexico, along the same lines as that with Canada, which Mr. Katz has said is no problem, unlike the H-1(B), after which it is modeled but with which there are many problems. He said there is no problem with this one. Maybe there is no problem because we don't know what this program is really doing. We have no idea who is here in this country.

So as I forewarned you a moment ago, do you have any idea how many people have entered from Canada with this designation? I think it is an indefinite period of entry, so long as the people are not dismissed or lose their jobs.

Do you have any idea how many have come in, Ms. Meissner, and where they are, what categories they occupy?

Ms. MEISSNER. Well, we do have some information. Perhaps we can also get you some more detailed follow up information.

[The information follows:]

The NAFTA Temporary Entry Chapter covers four categories of business persons, two of which are found in current United States law and available to nationals of all countries, including Mexicans and Canadians. These two categories are the visitor for business, B-1, and the intracompany transferee, L-1.

The third NAFTA category of temporary entry is the trader or investor which stems from the existing E-1 and E-2 classification found under United States immigration statutes. However, the E-1/E-2 classification is not available globally. Rather, it is based on underlying treaties of commerce, friendship, and navigation between the United States and a second country. Through NAFTA, Mexican citizens will gain the privilege of being classified as E-1/E-2. Implementing commitments for the temporary entry of traders and investors require a provision that confers admission status under Section 101(a)(15)(E) of the Act to the NAFTA Parties. This is similar to the approach undertaken in the CFTA for Canada, which in turn was based upon the Act of June 18, 1954, conferring treaty trader and investor status upon nationals of the Philippines on a basis of reciprocity between the United States and the Philippines.

The fourth NAFTA category is a professional category and is unique to the trade pact. Under the United States-Canada Free-Trade Agreement (CFTA), a similar category exists and INS uses the admission symbol "TC" to designate Canadians who have entered as CFTA professionals. Mexican and Canadian professionals, under NAFTA, will have access to the United States in this category. Under NAFTA, Mexico will be subject to a numerical ceiling of 5,500 professionals who may access the United States in the first year of the Agreement. No such numeric limitation is imposed on Canada.

The H classification is not covered under NAFTA. However, Mexican and Canadian citizens may be classified as H under regular immigration provisions.

Article 1502 of Chapter 15 of the CFTA obligates the Parties to collect and maintain data respecting the granting of temporary entry to business persons under the CFTA and must be made available to the other Party.

Accordingly, INS collects and maintains as part of our Nonimmigrant Information System (NIIS) data on the admission of Canadian citizens entering the United States as L-1, E-1, E-2, and TC pursuant to the CFTA. INS shares this data with our colleagues in Ottawa on an annual basis. Inasmuch as the CFTA entered into force on January 1, 1989, this data is maintained by the calendar year. After the first year, INS began to maintain the number of admissions under the CFTA, by occupation. Attached, please find copies of this data for calendar years 1989, 1990, 1991, and 1992.

The TC classification is controlled by Chapter 15 of the CFTA, Section 214(e) of the Immigration and Nationality Act, and the regulations at Title 8. A citizen of Canada who qualifies for entry as a TC may be admitted for an initial period of up to one year. Readmissions and extensions of stay may be granted in increments of one year. Each time the Canadian citizen applies to the INS for admission or extension of stay, it must be established that the purpose of stay is without the intent to establish permanent residence.

Ms. MEISSNER. In the last—in the last 4 years from Canada, the number has gone from about 5,000 in 1989 up to about 14,000 now. We, of course, don't know where they are.

Mr. MAZZOLI. Are you talking about a year?

Ms. MEISSNER. Yes. In the past. In 1992.

Mr. MAZZOLI. I mean totally from 1987.

Ms. MEISSNER. From 1989, it would have been increased by 9,000.

Mr. MAZZOLI. And how many totally have entered?

Ms. MEISSNER. In the last year, 14,000.

Mr. MAZZOLI. Since 1989.

Ms. MEISSNER. OK. Let me count, 35,000—36,000.

Mr. MAZZOLI. 36,000. But quite a few people—of those people, how many entered under what category? Do you know?

Ms. MEISSNER. I don't have that. We will have to get that for you.

[The information follows:]

USINS Statistics - FTA Professionals (TC)
Temporary Workers from Canada Admitted by Occupation
January 1, 1989 to December 31, 1989

<i>Occupations</i>	<i>January to March</i>	<i>April to June</i>	<i>July to September</i>	<i>October to December</i>	<i>Occupation Totals</i>	<i>Major Group Totals</i>
EXECUTIVE, ADMINISTRATIVE, MANAGERIAL OCCUPATION	57	182	213	225		677
PROFESSIONAL SPECIALTY	255	577	848	626		2308
<i>Architects & Surveyors</i>	4	4	11	13	32	
<i>Engineers</i>						
Aerospace	0	3	1	1	5	
Agricultural	2	0	1	0	3	
Chemical, Nuclear & Petroleum	4	5	8	3	20	
Civil	3	8	3	6	20	
Electrical & Electronic	4	13	14	12	43	
Industrial	0	0	1	0	1	
Mechanical & Naval (Naval Architects)	3	12	12	11	38	
Metallurgical, Materials, & Mining	0	1	1	3	5	
Engineers, Unspecified or Not Elsewhere Classified	38	130	120	86	374	
Total: Engineers	54	172	161	122	509	
<i>Computer, Mathematical, and Research Scientist</i>						
Computer	14	41	55	36	146	
<i>Natural Scientists</i>						
Physical Scientist	1	14	15	7	37	
Life Scientists	14	19	26	22	81	
Total: Natural Scientists	15	33	41	29	118	
<i>Social Recreation & Religious Workers</i>						
Social Recreation & Religious Workers	4	3	16	9	32	
<i>Social Scientist & Urban Planners</i>						
Social Scientist & Urban Planners	0	12	19	16	47	
<i>Lawyers & Judges</i>						
Lawyers & Judges	1	5	11	7	24	

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Occupations	January to March	April to June	July to September	October to December	Occupation Totals	Major Group Totals
<i>Teachers, College & University</i>	8	16	71	18	113	
<i>Teachers, Except College & University</i>	1	9	11	3	24	
<i>Vocational & Educational Counselors</i>	0	2	2	3	7	
<i>Librarians, Archivists, & Curators</i>	1	1	3	0	5	
<i>Health Diagnosing or Treating Occupations</i>						
Physicians	0	10	16	8	34	
Other Health Diagnosing/Treating Occupations	1	6	5	4	16	
Veterinarians	0	4	1	1	6	
Total: Health Diagnosing or Treating Occupations	1	20	22	13	56	
<i>Health Assessment & Treating Occupations</i>						
Registered Nurses	148	250	419	346	1163	
Pharmacists/Dietician/Physician's Ass't/Therapist	1	4	4	3	12	
Physical Therapists	0	0	0	1	1	
Total: Health Assessment & Treating Occupations	149	254	423	350	1176	
<i>Writers, Artists, Entertainers, and Athletes</i>						
Writers, Artists, and Composers	2	1	0	0	3	
Performers	1	0	0	0	1	
Editors, Reporters, PR Specialist, & Announcers	0	4	0	7	11	
Athletes & Related Workers	0	0	0	0	2	
Total: Writers, Artists, Entertainers, and Athletes	3	5	2	7	17	
TECHNOLOGISTS & TECHNICIANS	8	20	42	22	92	
MARKETING & SALES PERSONNEL	0	0	4	0	4	
ADMINISTRATIVE SUPPORT & CLERICAL OCCUPATIONS	1	3	11	15	30	

Occupations	January to March	April to June	July to September	October to December	Occupation Totals	Major Group Totals
SERVICE OCCUPATIONS						8
Private Household Service Occupations	0	7	1	0	0	
Protective Service Occupations	0	0	0	0	0	
Food & Beverage Preparation & Service Occupations	0	0	0	0	0	
Health Service Occupations	0	1	0	0	1	
Cleaning & Building Service Occupations	0	0	0	0	0	
Personal Service Occupations	0	6	1	0	7	
FARMING, FORESTRY, & FISHING OCCUPATIONS						16
Agricultural/Horticultural/Marine Life Occupations	3	2	5	6	0	
Forestry, & Logging Occupations	2	1	2	3	8	
Fishers, Hunters, & Trappers	1	1	2	3	7	
	0	0	1	0	1	
PRECISION PRODUCTION CRAFT & REPAIR OCCUPATIONS						1
Mechanics & Repairers	0	0	0	1	0	
Construction Trades	0	0	0	0	0	
Extractive Occupations	0	0	0	1	1	
Precision Production Occupations	0	0	0	0	0	
OPERATORS, FABRICATORS, & LABOURERS						1
Machine Operators & Tenders	1	0	0	0	0	
Transportation & Material Moving Occupations	0	0	0	0	0	
Handlers, Equipment Cleaners, Helpers & Labourers	1	0	0	0	1	
MILITARY OCCUPATIONS						0
	0	0	0	0	0	
NO OCCUPATIONS						11
Homemakers	0	1	10	0	3	
Unemployed	0	1	2	0	0	
Students/Children Under Age 16	0	0	0	0	0	
	0	0	8	0	8	
OCCUPATION UNKNOWN OR NOT REPORTED						523
	128	77	225	93		
TOTALS	453	869	1359	988	3669	3669

USINS Statistics - FTA Intra-Company Transferees (L-1)
Total For All Countries Admitted by Occupation
January 1, 1989 to December 31, 1989

<i>Occupations</i>	<i>January to March</i>	<i>April to June</i>	<i>July to September</i>	<i>October to December</i>	<i>Occupation Totals</i>	<i>Major Group Totals</i>
EXECUTIVE, ADMINISTRATIVE, MANAGERIAL OCCUPATION	3254	3807	3798	4478		15337
PROFESSIONAL SPECIALTY	1038	1117	1252	1147		4554
Architects & Surveyors	7	5	13	19	44	
Engineers						
Aerospace	5	1	1	0	7	
Agricultural	1	0	2	0	3	
Chemical, Nuclear & Petroleum	30	26	27	24	107	
Civil	9	14	16	12	51	
Electrical & Electronic	68	92	118	89	367	
Industrial	6	6	2	2	16	
Mechanical & Naval (Naval Architects)	21	33	31	28	113	
Metallurgical, Materials, & Mining	5	4	2	2	13	
Engineers, Unspecified or Not Elsewhere Classified	655	652	744	686	2737	
Total: Engineers	800	828	943	843	3414	
Computer, Mathematical, and Research Scientist	61	40	45	43	189	
Natural Scientists						
Physical Scientist	36	67	66	68	237	
Life Scientists	13	26	14	16	69	
Total: Natural Scientists	49	93	80	84	306	
Social Recreation & Religious Workers	14	15	16	15	60	
Social Scientist & Urban Planners	13	16	15	29	73	
Lawyers & Judges	12	22	23	21	78	

Occupations	January to March	April to June	July to September	October to December	Occupation Totals	Major Group Totals
Teachers, College & University	7	2	10	4	23	
Teachers, Except College & University	20	20	20	12	72	
Vocational & Educational Counselors	2	2	2	0	6	
Librarians, Archivists, & Curators	0	0	0	0	0	
Health Diagnosing or Treating Occupations						
Physicians	5	15	15	18	53	
Other Health Diagnosing/Treating Occupations	0	0	0	0	0	
Veterinarians	0	1	1	2	4	
Total: Health Diagnosing or Treating Occupations	5	16	16	20	57	
Health Assessment & Treating Occupations						
Registered Nurses	2	2	0	1	5	
Pharmacist/Dietician/Physician's Ass't./Therapist	2	1	1	9	13	
Physical Therapists	0	0	0	0	0	
Total: Health Assessment & Treating Occupations	4	3	1	10	18	
Writers, Artists, Entertainers, and Athletes						
Writers, Artists, and Composers	22	25	34	20	101	
Performers	8	14	13	15	50	
Editors, Reporters, PR Specialist, & Announcers	12	15	20	11	58	
Athletes & Related Workers	2	1	1	1	5	
Total: Writers, Artists, Entertainers, and Athletes	44	55	68	47	214	
TECHNOLOGISTS & TECHNICIANS	134	96	126	107	463	
MARKETING & SALES PERSONNEL	96	119	174	234	623	
ADMINISTRATIVE SUPPORT & CLERICAL OCCUPATIONS	88	105	152	97	442	

Occupations	January to March	April to June	July to September	October to December	Occupation Totals	Major Group Totals
SERVICE OCCUPATIONS	48	66	54	57	1	225
Private Household Service Occupations	0	0	0	1	1	
Protective Service Occupations	0	1	0	0	1	
Food & Beverage Preparation & Service Occupations	19	19	22	13	73	
Health Service Occupations	0	0	1	0	0	
Cleaning & Building Service Occupations	3	2	1	0	6	
Personal Service Occupations	26	44	30	43	143	
FARMING, FORESTRY, & FISHING OCCUPATIONS	8	11	8	4	11	31
Agricultural/Horticultural/Marine Life Occupations	2	3	5	1	11	
Forestry, & Logging Occupations	2	0	2	0	4	
Fishers, Hunters, & Trappers	4	8	1	3	16	
PRECISION PRODUCTION CRAFT & REPAIR OCCUPATIONS	57	39	33	25	43	154
Mechanics & Repairers	13	12	12	6	67	
Construction Trades	29	16	13	9	3	
Extractive Occupations	2	0	0	1	3	
Precision Production Occupations	13	11	8	9	41	
OPERATORS, FABRICATORS, & LABOURERS	11	19	21	16	7	67
Machine Operators & Tenders	2	2	3	0	51	
Transportation & Material Moving Occupations	7	15	13	16	3	
Crewmen	1	2	0	0	6	
Handlers, Equipment Cleaners, Helpers & Labourers	1	0	5	0	0	
MILITARY OCCUPATIONS	0	1	1	1	3	
NO OCCUPATIONS	43	46	82	24	14	195
Homemakers	5	3	5	1	181	
Students/Children Under Age 16	38	43	77	23	39707	
OCCUPATION UNKNOWN OR NOT REPORTED	10994	10106	10799	7808	61801	61801
TOTALS	15771	15532	16500	13998	39707	61801

USINS Statistics - Workers of Distinguished Merit or Ability (H1)
Total For All Countries Admitted by Occupation
January 1, 1989 to December 31, 1989

<i>Occupations</i>	<i>January to March</i>	<i>April to June</i>	<i>July to September</i>	<i>October to December</i>	<i>Occupation Totals</i>	<i>Major Group Totals</i>
EXECUTIVE, ADMINISTRATIVE, MANAGERIAL OCCUPATION	1800	1889	2409	2578		8676
PROFESSIONAL SPECIALTY	5743	6229	7975	6375		26322
Architects & Surveyors	146	113	137	131	527	
Engineers						
Aerospace	11	4	3	4	22	
Agricultural	1	2	2	2	7	
Chemical, Nuclear & Petroleum	36	33	45	39	153	
Civil	60	41	37	36	174	
Electrical & Electronic	193	231	258	176	858	
Industrial	11	4	15	7	37	
Mechanical & Naval (Naval Architects)	32	39	49	43	163	
Metallurgical, Materials, & Mining	3	6	7	1	17	
Engineers, Unspecified or Not Elsewhere Classified	832	723	832	751	3138	
Total: Engineers	1179	1083	1248	1059	4569	
Computer, Mathematical, and Research Scientist	256	214	170	120	760	
Natural Scientists						
Physical Scientist	107	124	166	107	504	
Life Scientists	188	229	304	238	959	
Total: Natural Scientists	295	353	470	345	1463	
Social Recreation & Religious Workers	54	56	90	49	249	
Social Scientist & Urban Planners	69	70	83	55	277	
Lawyers & Judges	106	117	125	138	486	

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Occupations	January to March	April to June	July to September	October to December	Occupation Totals	Major Group Totals
Teachers, College & University	327	212	598	258	1395	
Teachers, Except College & University	378	186	839	186	1589	
Vocational & Educational Counselors	5	14	18	9	46	
Librarians, Archivists, & Curators	12	11	12	8	43	
Health Diagnosing or Treating Occupations						
Physicians	100	144	155	137	536	
Other Health Diagnosing/Treating Occupations	8	6	13	5	32	
Veterinarians	4	8	11	1	24	
Total: Health Diagnosing or Treating Occupations	112	158	179	143	592	
Health Assessment & Treating Occupations						
Registered Nurses	1284	1956	1384	1346	5970	
Pharmacist/Dietician/Physician's Ass't./Therapist	55	59	74	52	240	
Physical Therapists	77	116	120	85	398	
Total: Health Assessment & Treating Occupations	1416	2131	1578	1483	6608	
Writers, Artists, Entertainers, and Athletes						
Writers, Artists, and Composers	201	211	363	253	1028	
Performers	1001	1142	1656	1957	5756	
Editors, Reporters, PR Specialist, & Announcers	58	72	80	80	290	
Athletes & Related Workers	125	86	329	101	641	
Total: Writers, Artists, Entertainers, and Athletes	1388	1511	2428	2391	7718	
TECHNOLOGISTS & TECHNICIANS	215	250	282	245	992	
MARKETING & SALES PERSONNEL	165	232	310	323	1030	
ADMINISTRATIVE SUPPORT & CLERICAL OCCUPATIONS	57	62	89	60	268	

Occupations	January to March	April to June	July to September	October to December	Occupation Totals	Major Group Totals
SERVICE OCCUPATIONS	67	83	87	68		305
Private Household Service Occupations	0	0	2	0	2	
Protective Service Occupations	2	1	0	1	4	
Food & Beverage Preparation & Service Occupations	15	22	26	9	72	
Health Service Occupations	0	0	0	2	3	
Cleaning & Building Service Occupations	0	5	2	2	9	
Personal Service Occupations	50	54	56	54	214	
FARMING, FORESTRY, & FISHING OCCUPATIONS	13	16	22	36		87
Agricultural/Horticultural/Marine Life Occupations	13	13	19	34	79	
Forestry, & Logging Occupations	0	0	0	0	0	
Fishers, Hunters, & Trappers	0	3	3	2	8	
PRECISION PRODUCTION CRAFT & REPAIR OCCUPATIONS	22	31	33	30		116
Mechanics & Repairers	2	6	3	3	14	
Construction Trades	9	10	19	20	58	
Extractive Occupations	0	1	0	0	1	
Precision Production Occupations	11	14	11	7	43	
OPERATORS, FABRICATORS, & LABOURERS	8	22	13	11		54
Machine Operators & Tenders	1	4	4	1	10	
Transportation & Material Moving Occupations	7	7	8	10	32	
Crewmen	0	0	4	0	5	
Handlers, Equipment Cleaners, Helpers & Labourers	0	7	0	0	7	
MILITARY OCCUPATIONS	1	0	60	0		61
NO OCCUPATIONS	54	56	99	39		248
Homemakers	5	5	4	3	17	
Students/Children Under Age 18	49	51	95	36	231	
OCCUPATION UNKNOWN OR NOT REPORTED	13896	12187	14600	10360		51043
TOTALS	22041	21057	25978	20125	89202	89202

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USINS Statistics - Exchange Visitors (J1)
Total For All Countries Admitted by Occupation
January 1, 1989 to December 31, 1989

Occupation	January to March	April to June	July to September	October to December	Occupation Totals	Major Group Totals
EXECUTIVE, ADMINISTRATIVE, MANAGERIAL OCCUPATION	535	939	1039	468		2981
PROFESSIONAL SPECIALTY	4388	6461	7411	3146		21406
Architects & Surveyors	20	35	35	20	110	
Engineers						
Aerospace	5	2	0	2	9	
Agricultural	5	9	36	3	53	
Chemical, Nuclear & Petroleum	11	18	15	9	53	
Civil	27	23	26	8	84	
Electrical & Electronic	54	60	76	24	214	
Industrial	7	6	9	1	23	
Mechanical & Naval (Naval Architects)	18	27	19	10	74	
Metallurgical, Materials, & Mining	3	4	1	0	8	
Engineers, Unspecified or Not Elsewhere Classified	251	285	377	179	1092	
Total: Engineers	381	434	559	236	1610	
Computer, Mathematical, and Research Scientist	60	58	88	28	234	
Natural Scientists						
Physical Scientist	184	239	288	140	851	
Life Scientists	418	517	625	366	1926	
Total: Natural Scientists	602	756	913	506	2777	
Social Recreation & Religious Workers	31	194	121	35	381	
Social Scientist & Urban Planners	88	106	174	50	418	
Lawyers & Judges	53	59	96	46	254	

Occupation	January to March	April to June	July to September	October to December	Occupation Totals	Major Group Totals
Teachers, College & University	1599	1497	2580	1046	6722	
Teachers, Except College & University	573	999	1369	282	3223	
Vocational & Educational Counselors	3	571	58	5	637	
Librarians, Archivists, & Curators	16	18	22	6	62	
Health Diagnosing or Treating Occupations						
Physicians	577	836	808	563	2784	
Other Health Diagnosing/Treating Occupations	28	41	36	14	119	
Veterinarians	16	25	29	9	79	
Total: Health Diagnosing or Treating Occupations	621	902	873	586	2982	
Health Assessment & Treating Occupations						
Registered Nurses	21	329	140	13	503	
Pharmacist/Dietician/Physician's Ass't/Therapist	53	50	58	28	189	
Physical Therapists	6	12	71	2	91	
Total: Health Assessment & Treating Occupations	80	391	11	43	525	
Writers, Artists, Entertainers, and Athletes						
Writers, Artists, and Composers	33	85	69	14	201	
Performers	169	175	205	182	731	
Editors, Reporters, PR Specialist, & Announcers	55	107	103	44	309	
Athletes & Related Workers	4	74	6	17	101	
Total: Writers, Artists, Entertainers, and Athletes	261	441	383	257	1342	
TECHNOLOGISTS & TECHNICIANS						
	111	171	128	62		472
MARKETING & SALES PERSONNEL						
	30	220	66	47		363
ADMINISTRATIVE SUPPORT & CLERICAL OCCUPATIONS						
	69	626	176	63		934

Occupation	January to March	April to June	July to September	October to December	Occupation Totals	Major Group Totals
SERVICE OCCUPATIONS	192	2226	255	164		2837
Private Household Service Occupations	4	10	2	0	16	
Protective Service Occupations	4	13	9	4	30	
Food & Beverage Preparation & Service Occupations	41	361	65	54	521	
Health Service Occupations	0	10	2	4		
Cleaning & Building Service Occupations	2	57	1	1	61	
Personal Service Occupations	141	1775	176	101	2193	
FARMING, FORESTRY, & FISHING OCCUPATIONS	136	209	112	37		494
Agricultural/Horticultural/Marine Life Occupations	133	194	92	35	454	
Forestry, & Logging Occupations	1	12	17	2	32	
Fishers, Hunters, & Trappers	2	3	3	0	8	
PRECISION PRODUCTION CRAFT & REPAIR OCCUPATIONS	35	137	49	20		241
Mechanics & Repairers	10	13	13	3	39	
Construction Trades	14	90	8	7	119	
Precisions Production Occupations	11	34	28	10	83	
OPERATORS, FABRICATORS, & LABOURERS	33	126	30	25		214
Machine Operators & Tenders	1	65	5	11	82	
Transportation & Material Moving Occupations	31	51	23	14	119	
Crewmen	1	1	0	0	2	
Handlers, Equipment Cleaners, Helpers & Labourers	0	9	2	0	11	
MILITARY OCCUPATIONS	17	13	19	2		51
NO OCCUPATIONS	8339	18109	31137	4030		61615
Homemakers	6	5	7	1	19	
Retirees	0	0	2	1	3	
Unemployed	1	7	0	3	11	
Students/Children Under Age 16	8332	18097	31128	4025	61582	
OCCUPATION UNKNOWN OR NOT REPORTED	18131	22030	35492	9709		85362
TOTALS	32016	51267	75914	17773	176970	176970

UNITED STATES-CANADA FREE--TRADE AGREEMENT
STATISTICS FOR CALENDAR YEAR 1992

TEMPORARY ENTRY CLASSIFICATIONS

PROFESSIONALS , TC	INTRACOMPANY TRANSFEREES	TREATY TRADERS E-1	INVESTORS E-2	BUSINESS VISITOR/B-1	DEPENDENTS OF TC(TB)
13980	5761	256	2652	15627	1728
TOTAL					

NOTE: THE FOLLOWING PAGES PROVIDE A BREAKDOWN BY OCCUPATION FOR TEMPORARY
ADMISSION FOR THE PROFESSIONAL (TC) AND INTRACOMPANY TRANSFEREE (L-1)
CLASSIFICATIONS.

- 1 -
NONIMMIGRANTS ADMITTED: CANADIANS
CALENDAR YEAR 1992

Occupation	Total	TC	E1	E2	L1
Total.....	22,649	13,980	256	2,652	5,761
Executive.....					
Administrative.....	4,220	1,969	-	-	2,351
Professional specialty.....	7,851	7,449	-	-	402
Architects & surveyors.....	1,865	81	-	-	235
Engineers.....	1,799	1,505	-	-	-
Agricultural.....	2	2	-	-	-
Civil.....	3	3	-	-	-
Chemical engineers.....					
Chemical nuclear.....					
Electrical.....	67	55	-	-	12
Petroleum.....	38	37	-	-	1
Civil engineers.....					
Electrical & engineers.....	135	107	-	-	28
Industrial engineers.....	9	8	-	-	1
Mechanical engineers.....					
Including marine.....					
Naval architects.....	70	58	-	-	12
Metallurgical &.....					
metallurgical engineers.....					
Including.....					
mining.....	9	7	-	-	2
Engineers.....					
Including.....					
discovered or not.....					
classified.....	1,406	1,229	-	-	177
Computer.....					
Mathematical.....					
Research.....	480	428	-	-	52
Scientists.....	227	227	-	-	0
Natural scientists.....	270	235	-	-	35
Life scientists.....					
Social, recreation, and.....	78	71	-	-	8
Social scientists.....					
Urban planners.....	113	112	-	-	1
Lawyers.....	91	87	-	-	4
Judges.....					
University.....	296	293	-	-	3

See footnotes at end of table.

- 3 -
NONIMMIGRANTS ADMITTED: CANADIANS
CALENDAR YEAR 1992 CONTINUED

Occupation	Total	TC	E1	E2	L1
Service occupations.....	24	1	-	-	23
Protective service.....	1	-	-	-	1
Service occupations.....	1	-	-	-	1
Occupations.....	1	-	-	-	1
Preparation & service occupations, except private household.....	7	1	-	-	6
Occupations.....	15	-	-	-	15
Farming, forestry and fishing occupations.....	29	24	-	-	5
Occupations, including horticulture, life, forestry and logging occupations.....	7	4	-	-	3
Crafts and repair occupations.....	22	20	-	-	2
Occupations.....	33	-	-	-	32
Construction trades occupations.....	14	1	-	-	14
Precision production occupations.....	4	1	-	-	3
Occupations, except machine operators and laborers.....	13	-	-	-	13
Machine operators and laborers, except material moving.....	4	-	-	-	4
Transportation & material moving occupations.....	8	-	-	-	8
Occupations.....	31	25	-	-	6
No occupation.....	10	9	-	-	1
Homemakers and/or children under age 16.....	21	16	-	-	5
Occupation unknown or not reported.....	9,729	4,141	256	2,652	2,680

- Data not available.

- 1 -
NONIMMIGRANTS ADMITTED: CANADIANS
CALENDAR YEAR 1992

Class of admission	Total	B1	TB
Total.....	17,395	15,627	1,728

FTA CALENDAR YEAR 1990 STATISTICS

QUARTER	BUSINESS VISITOR*	TREATY TRADER	TREATY INVESTOR	INTRA-COMPANY TRANSFEREE	PROFESSIONAL TC	DEPENDENTS OF TC (TB)
JAN - MAR	4246	57	359	1024	1152	42
APR - JUNE	4497	79	476	1108	1325	131
JULY - SEPT	4469	80	562	1133	1868	308
OCT - DEC	3955	45	410	1073	1602	139
TOTAL	17167	261	1807	4338	5947	620

*FIGURES ARE NOT RELIABLE AND DO NOT REPRESENT ALL BUSINESS VISITORS OF CANADIAN CITIZENSHIP--ONLY THOSE WHO ARE DOCUMENTED (FORM I-94).

NOTE: INS CANNOT IDENTIFY WHICH ADMISSIONS FOR BUSINESS VISITORS AND INTRA-COMPANY TRANSFEREES ARE UNDER THE FTA AND WHICH ARE UNDER GENERAL IMMIGRATION PROVISIONS.

- 3 -
TABLE 607. NONIMMIGRANTS ADMITTED BY COUNTRY OF CITIZENSHIP AND SELECTED CLASS OF ADMISSION/
JULY - SEPTEMBER 1990-Continued

COUNTRY OF CITIZENSHIP	TOTAL	TOTAL2/ 1	FOREIGN GOVERNMENT OFFICIALS				TEMPORARY VISITORS FOR BUSINESS			
			TOTAL	A1	A2	A3	TOTAL	B1	WB	GB
SENEGAL	1,900	1,926	82	21	59	4	692	692	-	-
SIERRA LEONE	1,004	1,005	34	4	30	-	112	112	-	-
SOMALIA	1,411	1,399	204	283	99	37	2,332	2,332	6	-
SUDAN	1,077	1,077	38	10	14	-	215	215	-	-
SWAZILAND	933	925	26	14	12	3	101	101	-	-
TANZANIA	334	332	16	18	56	-	157	157	-	-
TOGO	1,788	1,777	164	35	47	-	128	128	-	-
TUNISIA	1,735	1,735	71	56	56	-	131	131	-	-
ZAMBIA	1,032	1,035	13	13	5	-	109	109	-	-
ZAMBIA	1,453	1,453	56	19	42	1	265	265	1	-
ZIMBABWE	1,433	1,433	56	13	42	1	265	265	1	-
OCCEANICAN SAMOA	197,059	196,718	1,399	189	1,147	4	22,435	22,398	14	22
AUSTRALIA	129,600	129,435	1,168	137	1,029	2	16,837	16,612	8	17
COOK ISLANDS	1,365	1,365	5	5	-	-	127	127	-	-
FRENCH POLYNESIA	1,151	1,151	5	5	-	-	127	127	-	-
GUAM	245	240	8	1	7	-	16	16	-	-
GUJARATI	106	106	8	4	4	-	4	4	-	-
NAURU	57,680	57,639	100	18	82	-	5,128	5,116	6	6
NEW CALEDONIA	5,580	5,529	-	-	-	-	203	203	-	-
PACIFIC IS. TRUST TER	1,237	1,236	-	-	-	-	196	196	-	-
(TOTAL) IS. TRUST TER	7,851	7,818	-	-	-	-	81	81	-	-
MARSHALL ISLANDS	1,268	1,268	22	8	13	1	70	70	-	-
PAPUA NEW GUINEA	51	51	1	1	1	1	3	3	-	-
PITCAIRN ISLANDS	822	800	12	10	1	1	70	70	-	-
TONGAN ISLANDS	24	24	9	4	5	-	7	7	-	-
TUVALU	33	33	5	1	4	-	150	150	-	-
WESTERN SAMOA	1,075	1,055	-	-	-	-	126,232	126,232	128	-
NORTH AMERICA	955,257	940,953	3,267	1,214	1,937	116	126,232	126,232	128	-
CANADA	28,750	27,060	307	112	194	1	4,473	4,469	3	-
MEXICO	436,856	431,415	745	343	361	30	61,368	61,368	121	-
CARIBBEAN	376,657	371,683	1,286	453	819	42	40,550	40,550	121	-
ANTIGUA	7,899	7,880	39	17	19	3	1,685	1,685	45	-
ARUBA	92,637	92,627	385	56	261	1	2,270	2,270	2	-
BARBADOS	18,511	18,493	117	5	66	-	874	874	-	-
BERMUDA	1,362	1,336	-	-	-	-	874	874	-	-
BERMUDA VIRGIN IS.	7,330	7,320	65	35	47	14	5,448	5,448	2	-
CAYMAN ISLANDS	13,661	13,746	95	55	42	-	5,448	5,448	2	-
CUBA	56,082	55,574	774	23	15	-	2,988	2,988	-	-
DOMINICAN REPUBLIC	2,762	2,742	23	9	15	-	11,932	11,932	-	-
GUATEMALA	31,424	30,827	37	20	12	-	2,988	2,988	-	-
HAITI	70,283	70,291	323	289	27	-	11,932	11,932	-	-
JAMAICA	1,501	1,501	-	-	-	-	2,988	2,988	-	-
MARTINIQUE	1,501	1,501	-	-	-	-	2,988	2,988	-	-

See footnotes at end of table.

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TABLE 607. NONIMMIGRANTS ADMITTED BY COUNTRY OF CITIZENSHIP AND SELECTED CLASS OF ADMISSION/
JULY - SEPTEMBER 1950-CONTINUED

COUNTRY OF CITIZENSHIP	TEMPORARY VISITORS FOR PLEASURE					GR	TRANSIT ALIENS				
	TOTAL	B2	WT	GT	BE		TOTAL	C1	C2	C3	C4
SIERRA LEONE.....	716	716	..	..	..	..	4	3	..	..	1
SOUTH AFRICA.....	7,197	7,197	18	..	..	..	42	42	..	..	24
ARGENTINA.....	4,268	4,268	..	..	..	..	11	11	..	..	2
AUSTRALIA.....	4,224	4,224	..	..	..	..	37	15	..	..	2
BANZANIA.....	686	686	..	..	..	..	17	17	..	..	..
BELGIUM.....	2,658	2,658	1	..	..	..	18	13	..	..	..
BOLIVIA.....	325	325	..	..	..	..	26	26	..	..	10
BURMA.....	777	777	6	..	..	..	21	18	..	..	3
CHINA.....	165,642	164,144	945	..	..	..	1,517	682	12	17	606
COLOMBIA.....	106,812	105,650	310	..	..	..	581	146	7	1	427
COOK ISLANDS.....	972	972	..	..	..	..	188	123	..	..	64
FRENCH POLYNESIA.....	145	145	21	..	..	..	..	..	..	..	..
GUAM.....	64	64	..	..	..	..	..	..	..	..	..
GUAYRATI.....	900	900	35	..	..	..	138	110	..	..	23
HAITI.....	50	50	..	..	..	..	2	2	..	..	1
NEW CALEDONIA.....	50,615	50,379	205	31	..	..	500	212	5	10	273
PACIFIC ISLANDS.....	5,166	5,166	..	..	..	..	28	28	..	..	..
(TOTAL ALIENS TRUST TER	1,235	1,235	..	..	..	..	..	..	..	..	..
MARSHALL ISLANDS.....	2,476	2,476	..	..	..	..	28	28	..	..	..
MICRONESIA.....	1,471	1,471	..	..	..	..	8	8	..	..	..
PARUA NEW GUINEA.....	102	102	..	..	..	..	7	7	..	..	17
PITCAIRN ISLANDS.....	33	33	..	..	..	..	27	25	..	..	..
PONGOMON ISLANDS.....	668	668	..	..	..	..	11	11	..	..	..
TUNALU.....	19	19	..	..	..	..	..	..	..	..	..
UNITED STATES.....	851	851	1	..	..	..	..	..	..	..	..
WESTERN SAMOA.....	743,894	741,753	2,229	..	..	..	18,511	8,745	70	135	10,561
NORTH AMERICA.....	3,829	3,829	..	..	..	..	176	176	..	..	..
CANADA.....	351,099	351,099	45	..	..	..	6,004	1,345	24	9	4,626
MEXICO.....	311,209	309,607	2,134	..	..	..	1,171	1,171	18	4	3,889
CARIBBEAN.....	5,999	5,999	..	..	..	..	30	30	..	..	13
ANGUILLA.....	95	95	..	..	..	..	180	157	1	1	22
ARUBA.....	15	15	..	..	..	..	180	157	1	1	22
THE BAHAMAS.....	1,000	1,000	..	..	..	..	1,000	1,000	..	..	7
BERMUDA.....	60,000	60,000	..	..	..	..	1,000	1,000	..	..	6
BERNADA VIRGIN IS.....	60,000	60,000	..	..	..	..	1,000	1,000	..	..	..
CAYMAN ISLANDS.....	60,000	60,000	..	..	..	..	1,000	1,000	..	..	..
CUBA.....	10,000	10,000	..	..	..	..	1,000	1,000	..	..	..
DOMINICAN REPUBLIC.....	1,000	1,000	..	..	..	..	1,000	1,000	..	..	..
GUATEMALA.....	1,000	1,000	..	..	..	..	1,000	1,000	..	..	..
HAI TILOUPE.....	26,723	26,723	..	..	..	..	501	165	10	318	1,307
JAMAICA.....	49,944	49,944	..	..	..	..	2,587	1,365	15	10	1,307
MONTSEBAY.....	6,235	6,235	..	..	..	..	1	1	..	..	41
NETHERLAND.....	5,121	5,121	..	..	..	..	..	..	..	..	..
ANTILLES.....	5,121	5,121	..	..	..	..	..	..	..	..	..
PUERTO RICO.....	5,121	5,121	..	..	..	..	..	..	..	..	..

See footnotes at end of table.

TABLE 607. NONIMMIGRANTS ADMITTED BY COUNTRY OF CITIZENSHIP AND SELECTED CLASS OF ADMISSION/
JULY 1 - SEPTEMBER 1990 (CONTINUED)

COUNTRY OF CITIZENSHIP	TOTAL	TOTAL2/ L3	INTERNATIONAL REPRESENTATIVES					TEMP. WORKERS AND TRAINEES			
			TOTAL	G1	G2	G3	G4	G5	TOTAL L3	H1	TOTAL: H2A H2B2
REUNION	2	2	1	1	1	1	1	1	1	1	1
SAO TOME & PRINCE	170	170	11	3	4	1	1	1	1	1	1
RUANDA	170	170	11	3	4	1	1	1	1	1	1
AMERICAN SAMOA	129,608	129,435	446	43	60	341	2	2	970	921	32
COOK ISLANDS	1,358	1,358	283	25	21	235	2	2	743	706	25
FIJI	1,358	1,358	10	3	3	7	1	1	1	1	1
FRANCE POLYNESIA	1,358	1,358	10	3	3	7	1	1	1	1	1
GUAM	1,358	1,358	10	3	3	7	1	1	1	1	1
KIRIBATI	1,358	1,358	10	3	3	7	1	1	1	1	1
NEW CALEDONIA	1,358	1,358	10	3	3	7	1	1	1	1	1
NEW ZEALAND	57,685	57,637	122	12	12	98	2	2	215	204	7
PACIFIC IS. TRUST TER	5,581	5,557	2	1	1	1	1	1	1	1	1
PACIFIC ISLANDS	1,358	1,358	10	3	3	7	1	1	1	1	1
PERU	1,358	1,358	10	3	3	7	1	1	1	1	1
MICRONESIA	1,358	1,358	10	3	3	7	1	1	1	1	1
PALAU	1,358	1,358	10	3	3	7	1	1	1	1	1
PAPUA NEW GUINEA	1,358	1,358	10	3	3	7	1	1	1	1	1
PITCAIRN	1,358	1,358	10	3	3	7	1	1	1	1	1
SOLOMON ISLANDS	1,358	1,358	10	3	3	7	1	1	1	1	1
SOUTH AFRICA	1,358	1,358	10	3	3	7	1	1	1	1	1
TAIWAN	1,358	1,358	10	3	3	7	1	1	1	1	1
TONGA	1,358	1,358	10	3	3	7	1	1	1	1	1
TUVALU	1,358	1,358	10	3	3	7	1	1	1	1	1
WESTERN SAMOA	1,358	1,358	10	3	3	7	1	1	1	1	1
NORTH AMERICA	955,570	940,953	1,828	327	150	4	1,323	62	14,132	4,882	9,158
CANADA	375,780	375,060	1,828	327	150	4	1,323	62	14,132	4,882	9,158
GREENLAND	438,790	438,790	1,828	327	150	4	1,323	62	14,132	4,882	9,158
GUATEMALA	375,790	375,790	1,828	327	150	4	1,323	62	14,132	4,882	9,158
HAITI	375,790	375,790	1,828	327	150	4	1,323	62	14,132	4,882	9,158
ANGUILLA	375,790	375,790	1,828	327	150	4	1,323	62	14,132	4,882	9,158
ARUBA	375,790	375,790	1,828	327	150	4	1,323	62	14,132	4,882	9,158
BAHAMAS	375,790	375,790	1,828	327	150	4	1,323	62	14,132	4,882	9,158
BERMUDA	375,790	375,790	1,828	327	150	4	1,323	62	14,132	4,882	9,158
BRITISH VIRGIN IS	375,790	375,790	1,828	327	150	4	1,323	62	14,132	4,882	9,158
CAYMAN ISLANDS	375,790	375,790	1,828	327	150	4	1,323	62	14,132	4,882	9,158
CUBA	375,790	375,790	1,828	327	150	4	1,323	62	14,132	4,882	9,158
DOMINICA	375,790	375,790	1,828	327	150	4	1,323	62	14,132	4,882	9,158

See footnotes at end of table.

TABLE 607. NONIMMIGRANTS ADMITTED BY COUNTRY OF CITIZENSHIP AND SELECTED CLASS OF ADMISSION/
JULY - SEPTEMBER 1990-CONTINUED

COUNTRY OF CITIZENSHIP	TEMP WORKERS AND TRAINERS		SPOUSE AND CHILD OF H1-3 AND TC			J1	J2	K1	K2	L1
	H2B3/	H3	TC	TOTAL	H4	T8				
SENEGAL	-	-	-	-	-	-	76	899	-	1
SERRA LEONE	-	-	-	-	-	-	18	-	-	2
SOUTH AFRICA	3	-	-	101	-	-	4	100	-	82
SUDAN	-	-	-	-	-	-	20	-	-	2
TANZANIA	-	-	-	-	-	-	10	101	-	3
TOGO	1	-	-	-	-	-	2	23	-	3
UGANDA	-	-	-	4	-	-	2	16	-	3
ZAMBIA	-	-	-	-	-	-	13	13	-	3
ZIMBABWE	-	-	-	11	-	-	5	-	-	3
OECEANIA	28	17	-	340	340	-	161	300	43	629
AMERICAN SAMOA	21	12	-	281	281	-	143	222	25	489
AUSTRALIAN	-	-	-	-	-	-	746	-	-	1
EUROPE	-	-	-	2	2	-	9	3	2	1
FRENCH POLYNESIA	-	-	-	-	-	-	-	-	-	-
KIRIBATI	-	-	-	-	-	-	2	-	-	-
NAURU	-	-	-	-	-	-	-	-	-	-
NAURU/ALDEONIA	7	4	-	57	57	-	277	71	14	137
NEW ZEALAND	-	-	-	-	-	-	-	-	-	-
PACIFIC IS. TRUST TER	-	-	-	-	-	-	1	-	-	2
(PACIFIC IS. TRUST TER	-	-	-	-	-	-	-	-	-	-
MARSHALL ISLANDS	-	-	-	-	-	-	13	4	-	2
PALAU	-	-	-	-	-	-	-	-	-	-
PAPUA NEW GUINEA	-	-	-	-	-	-	-	-	-	-
SAMOA	-	-	-	-	-	-	-	-	-	-
SOLOMON ISLANDS	-	-	-	-	-	-	-	-	-	-
TONGA	-	-	-	-	-	-	-	-	-	-
TUVALU	-	-	-	-	-	-	-	-	-	-
VANUATU	-	-	-	-	-	-	-	-	-	-
WALLIS FUTUNA ISLANDS	-	-	-	-	-	-	-	-	-	-
WESTERN SAMOA	-	-	-	-	-	-	-	-	-	-
NORTH AMERICA	4704	36	1,868	1,743	1,441	308	5,721	1,003	368	1,926
ALASKA	3,335	-	-	1,073	1,765	-	4,416	-	152	1,133
GREENLAND	625	-	-	34	34	-	1,566	-	18	130
MEXICO	625	16	-	186	186	-	1,880	364	102	30
CANADA	-	-	-	-	-	-	21	-	-	-
ANTIGUA	-	-	-	-	-	-	1	-	-	-
BAHAMAS	1	-	-	4	4	-	1	-	-	-
BARBADOS	5	-	-	1	1	-	5	-	-	-
BERMUDA	-	-	-	-	-	-	2	-	-	-
BRITISH VIRGIN IS	-	-	-	-	-	-	10	-	-	-
CAYMAN ISLANDS	-	-	-	-	-	-	1	-	-	-
COLOMBIA	58	-	-	28	28	-	18	-	-	-
DOMINICA	37	-	-	23	23	-	1	-	-	-
DOMINICAN REPUBLIC	-	-	-	-	-	-	1	-	-	-
GUADALUPE	-	-	-	-	-	-	1	-	-	-
HAITI	-	-	-	-	-	-	1	-	-	-
MARTINIQUE	505	-	-	50	50	-	13	-	-	-

See footnotes at end of table

TABLE 607. NONIMMIGRANTS ADMITTED BY COUNTRY OF CITIZENSHIP AND SELECTED CLASS OF ADMISSION/
JULY - SEPTEMBER 1990-Continued

COUNTRY OF CITIZENSHIP	L2	NI-M9	PARDEES				RF	R4	R5	UN- KNOWN
			TOTAL	R1	R2	R3				
SIERRA LEONE	1		13	9						
SOMALIA	105	2	30	1						
SUDAN	1		13							
SWAZILAND	1		9							
TANZANIA	2		8	1						
TUNISIA	1		1							
UGANDA	1		1							
ZAMBIA	3		3							
ZIMBABWE										
OCEANIA	624	17	221	28	109	84				
AUSTRALIA	493	12	116	19	51	46				
COOK ISLANDS			10	1	6	3				
FRENCH POLYNESIA										
GUAM			5							
GUINEA	1									
HAITI										
NEW CALEDONIA	130	5	37	4	19	14				
NEW ZEALAND			18	1	6	11				
PACIFIC ISLANDS										
(TOTAL) IS. TRUST TER										
MARSHALL ISLANDS			12	1	5	3				
MICRONESIA										
PAPUA NEW GUINEA										
PITCAIRN ISLANDS										
TONGA			16		14	2				
TUVALU			1		1					
VANUATU			1							
WESTERN SAMOA			15	3	10	2				
NORTH AMERICA	1,748	259	9,461	765	1,899	6,797				
CANADA	1,022	184	1,633	146	1,309	1,178				
UNITED STATES	430	47	4,988	224	1,137	3,627				
CARIBBEAN	105	22	1,911	225	256	1,430				
ANTIGUA			6							
ARUBA			6							
BAHAMAS			8							
BERMUDA			1							
BRITISH VIRGIN IS.			2							
CAYMAN ISLANDS			1							
CUBA			465	110	40	315				
DOMINICA			28	23	33	25				
JAMAICA			289	21	208	2				
GUADALUPE			504	39	51	43				
HAWAII			574							
MARTINIQUE										
NETHERLAND ANTILLES										
PUERTO RICO			5							

See footnotes at end of table

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TABLE 607 NONIMMIGRANTS ADMITTED BY COUNTRY OF CITIZENSHIP AND SELECTED CLASS OF ADMISSION/
OCTOBER - DECEMBER 1990-Continued

COUNTRY OF CITIZENSHIP	TOTAL	TOTAL/ OFFICIALS	FOREIGN GOVERNMENT OFFICIALS				TEMPORARY VISITORS FOR BUSINESS			
			TOTAL	A1	A2	A3	TOTAL	B1	WB	GB
SOMALIA	943	803	77	18	53	6	72	72		
SOUTH AFRICA	9,431	9,405	84	44	40		1,928	1,928		
SWITZERLAND	560	560	11	-	11		110	110		
TANZANIA	919	911	17	7	3		180	180		
TURKEY	954	950	44	10	44		197	197		
TUNISIA	384	356	5	1	4		123	123		
UGANDA	240	240	48	3	23		152	152		
ZAMBIA	440	440	21	5	18		240	240		
ZIMBABWE	1,090	1,088	21							
OCEANIA	159,459	159,132	1,495	195	1,298	2	20,466	20,466	17	34
AMERICAN SAMOA	111,208	111,056	1,312	137	1,175	1	14,715	14,671	12	20
COOK ISLANDS	1,066	1,066	9	3	6		139	139		
FIJI	1,385	1,385								
FRENCH POLYNESIA	156	156								
KIRIBATI	249	244	17	6	13		26	26		
NEW CALEDONIA	142	142								
NEW ZEALAND	40,241	40,160	104	16	87	1	5,165	5,158	5	9
PACIFIC IS. TRUST TER										
(TOTAL)	4,402	4,368	3	3			207	207		
PAKISTAN	1,020	1,018	1	1			1	1		
PALAU	1,976	1,966	2	2			192	192		
PALAU NEW GUINEA	1,953	1,951	10	2	8		31	31		
PALAU NEW GUINEA	730	730	21	17	20		74	74		
SAO TOME AND PRINCE	20	20	1	1			1	1		
TONGA	573	558	2	2			79	79		
VANUATU	573	558	2	2			79	79		
WESTERN SAMOA										
NORTH AMERICA	785,046	772,928	2,558	1,058	1,482	62	130,724	130,590	144	
ALBERTA	18,048	17,928	528				3,958	3,958		
GREENLAND	357,466	352,341	573	284	277	12	59,831	59,831		
MEXICO	280,518	277,224	1,201	394	776	31	45,936	45,796	140	
MEXICO & MIQUELON										
CARIBBEAN	5,298	5,271	38	24	13	1	2,177	2,177		
ANGUILLA	5,298	5,271	38	24	13	1	1,488	1,488		
ARUBA	15,020	15,000	135	72	208		3,001	3,000		
BAHAMAS	1,884	1,884								
BERMUDA	1,884	1,884								
BRITISH VIRGIN IS	1,884	1,884								
CAYMAN ISLANDS	1,884	1,884								
CUBA	16,000	16,000	57	49	8	10	1,155	1,155		
DOMINICAN REPUBLIC	18,000	18,000	57	49	8	10	1,155	1,155		
GUADALUPE	21,000	21,000	57	49	8	10	1,155	1,155		
GUADALUPE	21,000	21,000	57	49	8	10	1,155	1,155		
JAMAICA	18,000	18,000	57	49	8	10	1,155	1,155		
MARTINIQUE	55,000	55,000	41	27	281	4	3,198	3,198		
NETHERLAND ANTILLES	6,298	6,298	2	2			1,687	1,687		

See footnotes at end of table.

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TABLE 607 NONIMMIGRANTS ADMITTED BY COUNTRY OF CITIZENSHIP AND SELECTED CLASS OF ADMISSION/
OCTOBER - DECEMBER 1990-Continued

COUNTRY OF CITIZENSHIP	TEMPORARY VISITORS FOR PLEASURE					WR	GR	TRANSIT ALIENS				
	TOTAL	B2	WT	GT	BE			TOTAL	C1	C2	C3	C4
SUDAN	295	295						11				
SWAZILAND	295	295						22				15
TANZANIA	102	102						19				4
TONGA	594	594						12				3
TUNISIA	203	203						11				8
UGANDA	203	203						14				2
ZAMBIA	679	679						10				
ZIMBABWE								2				
OCEANIA	131,087	129,551	552	984			1	2,207	982	3	25	1,197
AMERICAN SAMOA												
AUSTRALIA	91,394	90,321	326	847				896	289	1	3	603
FIJI	949	949						256	178		1	77
COOK ISLANDS	152	143	9									
FRENCH POLYNESIA	47	47						153	132		2	19
GUAM	154	154										
GUAM (ATI)												
MAURITIUS	33,106	32,876	192	78				739	259	2	7	471
NEW CALEDONIA												
NEW ZEALAND												
NIUE												
PACIFIC IS. TRUST TER	4,099	4,099						36	36			
PACIFIC IS. TRUST TER	1,016	1,016										
SAAMOA	1,092	1,092						36	36			
MICRONESIA	1,092	1,092						18	17			
PAPUA NEW GUINEA	553	553						36	36			
SOLOMON ISLANDS	553	553						34	34			
TONGA	11	11						1	1			
UNALU	11	11										
UNALU	11	11										
FUTUNA ISLANDS	450	450						23	21			2
WESTERN SAMOA												
NORTH AMERICA	592,138	590,457	1,681				3	21,533	8,915	29	139	12,450
Canada	3,768	3,750	18					153	86			67
GREENLAND	280,728	280,728	30					6,498	943	14	3	5,538
ST. PIERRE & MIQUELON												
MEXICO	212,977	211,366	1,611				3	7,010	2,570	7	48	4,365
ANGUILLA	1,770	1,770						12	51			21
ANTIGUA	73,930	73,911	508					293	283			10
ARUBA	5,433	5,433						11	11			
BAHAMAS	480	480						11	11			
BERMUDA	15,933	15,933	41					11	11			
BRITISH VIRGIN IS.												
CAYMAN ISLANDS	15,933	15,933	8					12	12			
DOMINICA	17,288	17,288	18					13	13			
DOMINICAN REPUBLIC	14,690	14,690	19					192	179			17
GUADALOUPE	12,967	12,967	22					2,145	1,145	2	4	2,045
HAITI	23,161	23,161	20					727	292			835
JAMAICA	1,611	1,611	896					70	70			2,045
MARTINIQUE	4,644	4,644						11	11			63
MONTSERRAT	1,611	1,611						11	11			63
NETHERLAND												
ANTILLES												
PUERTO RICO												
SA. KITT'S-NEVIS	1,568	1,567						28	28			31
SA. LUCIA												

See footnotes at end of table.

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TABLE 607. NONIMMIGRANTS ADMITTED BY COUNTRY OF CITIZENSHIP AND SELECTED CLASS OF ADMISSION^{1/}
OCTOBER - DECEMBER 1990-Continued

COUNTRY OF CITIZENSHIP	TEMP. WORKERS AND TRAINEES		SPOUSE AND CHILD OF H1-3 AND TC			J1	J2	K1	K2	L1
	H2B3/ H3	TC	TOTAL	H4	TB					
SOMALIA	6	1	65	63	-	197	62	1	-	63
SUDAN	1	-	6	6	-	8	11	3	-	1
SWAZILAND	2	-	-	-	-	22	13	-	-	1
SWITZERLAND	2	-	-	-	-	22	13	1	-	1
TONGA	2	-	-	-	-	22	13	1	-	1
TUNISIA	2	-	-	-	-	22	13	1	-	1
UNITED STATES	1	-	-	-	-	22	13	1	-	1
YEMEN	1	-	-	-	-	22	13	1	-	1
ZAMBIA	1	-	-	-	-	22	13	1	-	1
ZIMBABWE	1	-	-	-	-	22	13	1	-	1
OCEANIA	95	-	181	181	-	889	250	40	2	711
AUSTRALIA	58	9	159	159	-	490	216	23	1	612
NEW ZEALAND	36	2	22	22	-	364	30	16	1	182
PACIFIC IS. TRUST TER	1	-	-	-	-	-	-	-	-	-
MARSHALL ISLANDS	1	-	-	-	-	-	-	-	-	-
FIJI	1	-	-	-	-	-	-	-	-	-
PAKISTAN	1	-	-	-	-	-	-	-	-	-
PAPUA NEW GUINEA	1	-	-	-	-	-	-	-	-	-
SOLOMON ISLANDS	1	-	-	-	-	-	-	-	-	-
TAIWAN	1	-	-	-	-	-	-	-	-	-
TUVALU	1	-	-	-	-	-	-	-	-	-
VANUATU	1	-	-	-	-	-	-	-	-	-
FUTUNA ISLANDS	1	-	-	-	-	-	-	-	-	-
WESTERN SAMOA	1	-	-	-	-	-	-	-	-	-
NORTH AMERICA	3,534	40	1,602	680	140	1,950	361	301	74	1,853
CANADA	2,673	18	1,602	483	139	1,724	109	108	3	1,073
GREENLAND	290	13	197	196	1	379	112	106	53	410
ST. PIERRE & MIQUELON	511	5	85	85	-	142	4	5	5	122
CARIBBEAN	511	5	85	85	-	142	4	5	5	122
ANTIGUA	1	-	2	2	-	3	2	-	-	1
ARUBA	1	-	2	2	-	3	2	-	-	1
BAHAMAS	1	-	2	2	-	3	2	-	-	1
BARBADOS	1	-	2	2	-	3	2	-	-	1
BERMUDA	1	-	2	2	-	3	2	-	-	1
CAYMAN ISLANDS	1	-	2	2	-	3	2	-	-	1
CUBA	18	3	17	17	-	26	9	16	1	23
DOMINICAN REPUBLIC	11	-	7	7	-	16	9	10	1	23
GUATEMALA	1	-	2	2	-	3	2	-	-	1
HAITI	464	1	21	21	-	152	12	12	1	15
MEXICO	-	-	-	-	-	32	3	-	-	-
MONTserrat	-	-	-	-	-	-	-	-	-	-
NETHERLAND ANTILLES	-	-	-	-	-	-	-	-	-	-

See footnotes at end of table.

TABLE 607 NONIMMIGRANTS ADMITTED BY COUNTRY OF CITIZENSHIP AND SELECTED CLASS OF ADMISSION/
JANUARY - MARCH 1990-Continued

COUNTRY OF CITIZENSHIP	TOTAL 2/	FOREIGN GOVERNMENT OFFICIALS				TEMPORARY VISITORS FOR BUSINESS			
		TOTAL	A1	A2	A3	TOTAL	B1	B5	B8
SEYCHELLES.....	42	41	1	1	1	38	38	0	0
SOMALIA.....	486	486	14	32	1	2,156	2,156	0	0
SOUTH AFRICA.....	6,826	6,826	156	1	1	2,156	2,156	0	0
SWAZILAND.....	6,826	6,826	156	1	1	2,156	2,156	0	0
TANZANIA.....	394	394	394	1	1	181	181	0	0
TUNISIA.....	910	908	7	46	1	104	104	0	0
UGANDA.....	316	297	30	18	1	268	268	0	0
UGANDAN SAHARA.....	511	472	30	18	1	268	268	0	0
UNITED STATES.....	449	440	18	8	1	20,864	20,864	0	27
ZAMBIA.....	848	848	141	84	4	15,990	15,990	0	24
OCEANIA.....	118,429	999	141	84	4	108	108	0	0
AUSTRALIA.....	86,995	801	90	709	2	37	37	0	0
COOK ISLANDS.....	1,157	1,137	7	5	1	108	108	0	0
FRENCH POLYNESIA.....	1,623	1,623	2	1	1	37	37	0	0
GUAM.....	263	263	9	1	1	4,508	4,508	0	0
GUAMATI.....	241	241	4	1	1	188	188	0	0
NEW CALEDONIA.....	26,231	26,231	115	84	12	181	181	0	0
PACIFIC IS. TRUST TER (TOTAL).....	1,183	1,183	1	1	1	57	57	0	0
MARSHALL ISLANDS.....	1,183	1,183	1	1	1	27	27	0	0
MICRONESIA.....	1,023	1,023	1	1	1	116,580	116,580	0	43
PAPUA NEW GUINEA.....	1,023	1,023	1	1	1	4,236	4,236	0	0
SOLOMON ISLANDS.....	420	420	1	1	1	53,331	53,331	0	42
TUVALU.....	420	420	1	1	1	40,093	40,093	0	10
VANUATU.....	370	370	2	1	1	1,783	1,783	0	0
NORTH AMERICA.....	567,020	2,819	89	1,813	11	1,783	1,783	0	0
ALBERTA.....	18,113	2,819	89	1,813	11	1,783	1,783	0	0
GREENLAND.....	246,828	579	25	30	5	1,783	1,783	0	0
MEXICO.....	201,889	1,280	354	887	39	1,783	1,783	0	0
PORTO RICO & MIQUELON.....	199,425	46	5	21	6	1,783	1,783	0	0
ANTIGUA.....	3,766	297	18	209	1	1,783	1,783	0	0
ARUBA.....	5,188	5,188	1	1	1	1,783	1,783	0	0
BAHAMAS.....	5,188	5,188	1	1	1	1,783	1,783	0	0
BERMUDA.....	3,766	3,766	1	1	1	1,783	1,783	0	0
BRITISH VIRGIN IS.	3,766	3,766	1	1	1	1,783	1,783	0	0
CAYMAN ISLANDS.....	3,766	3,766	1	1	1	1,783	1,783	0	0
CUBA.....	3,766	3,766	1	1	1	1,783	1,783	0	0
DOMINICAN REPUBLIC.....	20,757	199	15	10	1	1,783	1,783	0	0
GUADALOUPE.....	15,407	44	8	25	1	1,783	1,783	0	0
JAMAICA.....	14,894	362	1	1	1	1,783	1,783	0	0
MONTSERAT.....	378	378	1	1	1	1,783	1,783	0	0

See footnotes at end of table.

TABLE 607. NONIMMIGRANTS ADMITTED BY COUNTRY OF CITIZENSHIP AND SELECTED CLASS OF ADMISSION¹/
JANUARY - MARCH 1980-Continued

COUNTRY OF CITIZENSHIP	TEMPORARY VISITORS FOR PLEASURE					WR	OR	TRANSIT ALIENS				
	TOTAL	B2	WT	GT	BE			TOTAL	C1	C2	C3	C4
SOMALIA.....	422	422						11	5			6
SOUTH AFRICA.....	3,423	3,423						56	23			13
SWAZILAND.....	114	114						1				1
SWITZERLAND.....	192	192						13	9			3
TANZANIA.....	429	429						26	21			5
TUNISIA.....	93	93						24	22			2
UGANDA.....	117	117						18	14			15
Zaire.....	332	332						2,001	820	17	23	1,141
ZIMBABWE.....	89,534	88,125	348	1,089				656	126	12	2	518
OCEANIAN COUNTRIES.....	65,409	64,224	186	899				252	146	2		102
AUSTRALIA.....	705	705						178	130	1		48
COOK ISLANDS.....	57	57						751	287	2	18	443
FRENCH POLYNESIA.....	57	57						55	54			1
GUAM.....	35	35						55	54			1
HAWAII.....	21,517	21,517	10	27				4	4			1
NEW ZEALAND.....	832	832						37	17	17	2	125
PACIFIC IS. TRUST TER.	12	12						50	45			12
PACIFIC IS. TRUST TER.	12	12						15	3			
MARSHALL ISLANDS.....	720	720						16,355	8,302	53	197	7,778
MICRONESIA.....	64	64						2,515	888	18	6	1,582
PAPUA NEW GUINEA.....	32	32						6,125	2,750	13	114	3,248
SOLOMON ISLANDS.....	302	302						19	13	1		5
TUVALU.....	302	302						150	123	1		25
VANUATU.....	302	302						150	123	1		25
WESTERN SAMOA.....	380	380						137	137			137
NORTH AMERICA.....	381,324	380,843	386					1,568	1,568			1,568
CANADA.....	2,311	2,311						2,515	888			1,582
GREENLAND.....	171,834	171,834						6,125	2,750			3,248
MEXICO.....	142,340	141,975	365					19	13			5
CARIBBEAN.....	1,233	1,233						150	123			25
ANGUILLA.....	1,233	1,233						150	123			25
ARUBA.....	52,268	52,268						137	137			137
BAHAMAS.....	2,278	2,278						1,568	1,568			1,568
BERMUDA.....	2,664	2,664						2,515	888			1,582
BRITISH VIRGIN IS.....	6,842	6,842						6,125	2,750			3,248
CUBA.....	12,871	12,871						1,568	1,568			1,568
DOMINICA.....	12,871	12,871						2,515	888			1,582
DOMINICAN REPUBLIC.....	12,871	12,871						1,568	1,568			1,568
GUADALUPE.....	10,102	10,102						2,515	888			1,582
JAMAICA.....	20,319	20,319						40	39			37
MARTINIQUE.....	143	143						2	2			6
NETHERLAND ANTILLES.....	2,324	2,324						2	2			6
PUERTO RICO.....	12	12						1	1			1
ST. KITTS-NEVIS.....	986	986						21	13			37

See footnotes at end of table.

JANUARY - MARCH 1990 - Continued
ADMISSION/[illegible]

See footnotes at end of table

TABLE 607. NONIMMIGRANTS ADMITTED BY COUNTRY OF CITIZENSHIP AND SELECTED CLASS OF ADMISSION/
JANUARY - MARCH 1990-Continued

[illegible]

See footnotes at end of table.

TABLE 607. NONIMMIGRANTS ADMITTED BY COUNTRY OF CITIZENSHIP AND SELECTED CLASS OF ADMISSION/
JANUARY - MARCH 1980-CORRIGEND

COUNTRY OF CITIZENSHIP	TEMP. WORKERS AND TRAINEES			SPOUSE AND CHILD AND TC	H4	T8	I1	J1	J2	K1	K2	L1
	H2B3/ H3	TC	TC									
SAO TOME & PRINCIPE		1										
SENEGAL		1										
SEYCHELLES		1										
SIERRA LEONE		1										
SOUTH AFRICA	2	1		72								93
SUDAN		1										6
SWAZILAND		1										6
TANZANIA		1										6
TUNISIA		1										6
WESTERN SAHARA		1										6
ZAMBIA		1										6
ZIMBABWE		1										6
OCEANIA												
AMERICAN SAMOA	108	12		264			143	943	205	37	7	794
AUSTRALIA	37	12		217			119	678	167	26	5	596
COOK ISLANDS												3
FUJI												3
FRENCH POLYNESIA												3
KIRIBATI												3
NEUHEALANDIA												3
NEW ZEALAND	71			45			24	226	34	4		185
PACIFIC IS. TRUST TER												
(PACIFIC IS. TRUST TER												
MARSHALL ISLANDS												
MIKONESIA												
PALAU												
PAPUA NEW GUINEA												
TONGAN ISLANDS												
TONGA												
TUVALU												
WESTERN SAMOA												
NORTH AMERICA	2,952	54	1,152	818			216	3,876	480	255	34	1,958
CANADA	2,197	25		351			17	878	122	68	7	1,024
GREENLAND												
ST. PIERRE & MIQUELON	366	12		279			124	764	222	118	19	503
CARIBBEAN	355	9		119			52	546	43	46	2	175
ANTIGUA												
BAHAMAS												
BARBADOS												
BERMUDA												
BELTISH VIRGIN IS												
CAYMAN ISLANDS												
COLOMBIA												
DOMINICAN REPUBLIC	212	89		32			4	109				
DOMINICA				22								
GUATEMALA												
HAITI		1		1			2	50				

See footnotes at end of table.

TABLE 607. NONIMMIGRANTS ADMITTED BY COUNTRY OF CITIZENSHIP AND SELECTED CLASS OF ADMISSION/
JANUARY - MARCH 1980-Continued

COUNTRY OF CITIZENSHIP	L2	M1-N9	PARDULEES				RF	R4	R5	UN- KNOWN
			TOTAL	R1	R2	R3				
SOMALIA	74		11	10	7	8	8	9		
SOUTH AFRICA			56	19	2	10	10			
SWAZILAND			2	1	2	1				
TANZANIA			2	1	2	1				
TUNISIA	1		1	1	2	2	12	1		
UGANDA			1	1	2	2	34	2		
WESTERN SAHARA			2	1	2	1	1	2		
ZAFRE	2		1							
ZAMBIA										
ZAMBIA										
OCEANIAN	522		220	34	120	66	93			
AMERICAN SAMOA										
AUSTRALIA	421		84	18	42	24	32			
COOK ISLANDS	2		19	2	10	7				
FRENCH POLYNESIA										
GUAM										
GUAMBATI										
MAURU										
NEW CALEDONIA										
NEW ZEALAND	99		61	12	29	20	15			
PACIFIC IS. TRUST TER			17	1	9	7				
(TOTAL) IS. TRUST TER			1	1	1	1				
MARSHALL ISLANDS			15		8	7				
MICRONESIA										
PAPUA NEW GUINEA			21		20	1				
SOLOMON ISLANDS										
TONGA										
TUVALU										
VANUATU			16	1	9	6				
WESTERN SAMOA										
NORTH AMERICA	1,183		94	12	86	840	575	1,798	73	
ALASKA	603		14	1	10	109	1,223	1,026		
GREENLAND			1	1	1	1				
MEXICO	368		42	9,069	395	1,235	7,390	616		
MEXICORE & MIOUOLON			20	1,432	183	232	1,017	269	51	
CARIBBEAN	75									
ANGUILLA			9	2	3	4				
ARUBA			3	1	1	1				
BAHAMAS	1		1	1	1	1				
BERMUDA	1		1	1	1	1				
BRITISH VIRGIN IS.			15	2	2	11				
CAYMAN ISLANDS			2			1				
CUBA	26		228	66	150	147	263	272	42	
DOMINICA			156	19	34	98				
DOMINICAN REPUBLIC			157	13	2	58				
GUADALOUPE			431	34	39	31				
JAMAICA			270	31	32	18				
MARTINIQUE			4	1	2	1				
MONTserrat			4	1	2	1				
NETHERLAND ANTILLES			1	1	1	1				
PUERTO RICO			12			12				
SAINT KITTS-NEVIS										

See footnotes at end of table.

TABLE 607 NONIMMIGRANTS ADMITTED BY COUNTRY OF CITIZENSHIP AND SELECTED CLASS OF ADMISSION/
APRIL - JUNE 1990-Continued

COUNTRY OF CITIZENSHIP	TOTAL	TOTAL ^{2/}	FOREIGN GOVERNMENT OFFICIALS				TEMPORARY VISITORS FOR BUSINESS			
			TOTAL	A1	A2	A3	TOTAL	B1	WB	GB
SIERRA LEONE	549	542	12	58	1	3	72	72		
SOMALIA	569	569	569	569	2		569	2,716		
SOUTH AFRICA	11,559	11,559	20	2	2	2	2,116	2,116		
SWAZILAND	1,633	1,633	20	2	1	1	1,633	1,633		
TANZANIA	3,322	3,322	20	2	1	1	1,630	1,630		
TUNISIA	1,080	1,076	89	7	6		221	220		
UGANDA	491	474	50	18	32		141	141		
UGANDAN SAHARA	885	872	50	18	32		197	196		
ZAMBIA	1,160	1,158	22	1	18		264	264		
ZAMBIAWE										
OCEANIA	175,371	175,122	1,267	144	1,119	4	25,102	25,071	10	22
AUSTRALIA	117,834	117,736	1,118	95	1,022	1	18,573	18,573	7	19
COOK ISLANDS	1,536	1,513	18	6	12		184	184		
FRENCH POLYNESIA	1,106	1,068								
GUAM	259	250	12	6	7		36	36		
GUAMATI	136	136	6	4	2		18	18		
HAITI	1,149	1,149	89	24	64	1	5,851	5,851	3	1
NEW CALEDONIA	50,164	50,109								
NEW ZEALAND	3,037	3,020	2	2			225	225		
PACIFIC IS.	717	715	2	2			218	218		
MICRONESIA	1,349	1,325	11	4	7		42	42		
PAPUA NEW GUINEA	1,166	1,162	7	3	2	2	55	55		
SOLOMON ISLANDS	36	36	2	2			6	6		
TAIWAN	228	228	2	2			80	80		
TUVALU	22	22	1							
VANUATU	675	648								
WESTERN SAMIA										
NORTH AMERICA	731,171	718,548	2,839	924	1,885	50	130,411	130,318	93	
CANADA	18,958	17,471	324	69	1,155		4,497	4,497		
GREENLAND	332,488	326,117	484	240	235	19	58,947	58,947	2	
ST. PIERRE & MIQUELON	272,737	268,982	1,311	362	934	15	45,272	45,272	9	
CARIBBEAN	5,473	5,473	55	27	32		2,107	2,107		
ANTIGUA	7,004	7,004	283	70	214		1,650	1,650		
BARBADOS	10,072	10,072	107	24	83		2,509	2,509		
BERMUDA	1,356	1,356					526	526		
CAYMAN ISLANDS	5,311	5,311					1,081	1,081		
CUBA	2,002	2,002	45	21	40		2,077	2,077		
DOMINICAN REPUBLIC	2,002	2,002	24	7	35		5,503	5,503		
GUATEMALA	1,173	1,173	24	15	31		3,084	3,084		
HAITI	1,173	1,173	445	15	34		14,076	14,076		
JAMAICA	1,173	1,173	3	3			184	184		
MONTserrat	5,218	5,218								

See footnotes at end of table

TABLE 607 NONIMMIGRANTS ADMITTED BY COUNTRY OF CITIZENSHIP AND SELECTED CLASS OF ADMISSION/
APRIL - JUNE 1950 (CONTINUED)

COUNTRY OF CITIZENSHIP	TEMPORARY VISITORS FOR PLEASURE					WR	GR	TRANSIT ALIENS					
	TOTAL	B2	WT	GT	BE			TOTAL	C1	C2	C3	C4	
SOUTH AFRICA	8,018	8,006	12	-	-	-	-	81	18	-	-	2	31
SUDAN	5,234	5,234	-	-	-	-	-	25	18	-	-	-	4
TANZANIA	315	315	-	-	-	-	-	6	4	-	-	-	4
TONGA	507	507	-	-	-	-	-	23	19	-	-	-	7
UGANDA	201	201	4	-	-	-	-	2	0	-	-	-	7
WESTERN SAHARA	1	1	-	-	-	-	-	1	-	-	-	-	1
ZAMBIA	239	239	-	-	-	-	-	14	10	-	-	-	2
ZIMBABWE	734	732	-	-	-	-	-	1	5	-	-	-	6
OCEANIA	142,449	141,570	372	507	-	-	-	1,580	742	9	24	805	
AMERICAN SAMOA	8	8	-	-	-	-	-	536	125	6	4	401	
AUSTRALIA	94,155	93,505	217	437	-	-	-	216	162	-	-	54	
COOK ISLANDS	5	5	-	-	-	-	-	133	83	-	-	50	
FRENCH POLYNESIA	1,090	1,090	1	-	-	-	-	539	257	2	10	270	
GUAM	6	6	-	-	-	-	-	40	40	-	-	-	
KIRIBATI	17	17	-	-	-	-	-	40	40	-	-	-	
NEW CALEDONIA	16	16	-	-	-	-	-	93	60	1	10	22	
NEW ZEALAND	42,448	42,273	147	28	-	-	-	15	5	-	-	-	
PACIFIC IS.	3,313	3,313	-	-	-	-	-	3	-	-	-	-	
PACIFIC IS. TRUST TER	3,313	3,313	-	-	-	-	-	13,934	7,504	29	105	6,296	
PALAU	730	730	-	-	-	-	-	145	78	-	-	61	
MARSHALL ISLANDS	1,347	1,347	-	-	-	-	-	2,702	988	10	7	1,697	
MICRONESIA	1,225	1,225	-	-	-	-	-	4,917	2,301	6	27	2,669	
PALAU	1,225	1,225	-	-	-	-	-	10	3	-	-	19	
PAPUA NEW GUINEA	508	508	-	-	-	-	-	48	32	-	-	20	
SOLOMON ISLANDS	19	19	-	-	-	-	-	18	18	-	-	20	
TONGA	508	508	-	-	-	-	-	32	22	-	-	19	
TUVALU	6	6	-	-	-	-	-	15	5	-	-	22	
WALLIS & FUTUNA ISLANDS	1	1	-	-	-	-	-	3	-	-	-	-	
WESTERN SAMOA	538	538	-	-	-	-	-	105	6,296	29	105	6,296	
NORTH AMERICA	542,737	541,811	936	-	-	-	-	13,934	7,504	29	105	6,296	
CANADA	2,679	2,666	13	-	-	-	-	145	78	-	-	61	
GREENLAND	2,679	2,666	13	-	-	-	-	145	78	-	-	61	
MEXICO	255,229	255,202	27	-	-	-	-	2,702	988	10	7	1,697	
ST. PIERRE & MIQUELON	209,166	209,166	-	-	-	-	-	4,917	2,301	6	27	2,669	
ISLANDIA	210,946	209,166	89	-	-	-	-	10	3	-	-	19	
ANTIGUA	3,361	3,361	-	-	-	-	-	48	32	-	-	20	
BARBADOS	69,289	69,281	378	-	-	-	-	18	18	-	-	19	
BAHAMAS	7,070	7,069	-	-	-	-	-	18	18	-	-	20	
BERMUDA	235	235	-	-	-	-	-	12	7	-	-	5	
BRITISH VIRGIN IS	4,666	4,660	-	-	-	-	-	12	7	-	-	5	
CAYMAN ISLANDS	16,629	16,629	-	-	-	-	-	195	195	-	-	330	
DOMINICA	21,919	21,912	7	-	-	-	-	1,601	1,324	3	1	1,463	
DOMINICAN REPUBLIC	1,173	1,154	19	-	-	-	-	101	101	-	-	1	
GUATEMALA	13,910	13,908	2	-	-	-	-	365	1,224	1	10	430	
HAITI	32,903	32,135	68	-	-	-	-	1,385	1,224	1	1	1	
JAMAICA	3,241	3,148	37	-	-	-	-	31	1	-	-	31	
MARTINIQUE	3,241	3,148	37	-	-	-	-	31	1	-	-	31	
MONTserrat	3,241	3,148	37	-	-	-	-	31	1	-	-	31	
PUERTO RICO	1,792	1,792	-	-	-	-	-	43	32	-	-	11	
ST. KITTS-NEVIS	1,792	1,792	-	-	-	-	-	43	32	-	-	11	

See footnotes at end of table

TABLE 607. NONIMMIGRANTS ADMITTED BY COUNTRY OF CITIZENSHIP AND SELECTED CLASS OF ADMISSION
APRIL - JUNE 1980-Continued

COUNTRY OF CITIZENSHIP	TREATY, PROBERS AND INVESTORS			STUDENTS			SPOUSES AND CHILDREN OF STUDENTS		
	TOTAL	E1	E2	TOTAL	F1	M1	TOTAL	F2	M2
SENEGAL	1	1	-	47	47	-	1	1	-
SEYCHELLES	-	-	-	10	10	-	-	-	-
SIERRA LEONE	-	-	-	10	10	-	-	-	-
SOUTH AFRICA	10	3	7	91	88	-	12	12	-
SUDAN	-	-	-	52	52	-	-	-	-
SUDANLAND	-	-	-	12	11	-	1	1	-
TANZANIA	-	-	-	12	12	-	6	6	-
Togo	-	-	-	15	15	-	1	1	-
Togo	-	-	-	15	15	-	1	1	-
UGANDA	-	-	-	17	17	-	6	6	-
WESTERN SAHARA	-	-	-	28	25	-	3	3	-
ZAMBIA	1	-	-	15	12	-	4	4	-
ZIMBABWE	-	-	-	25	23	-	3	3	-
OCEANIA	21	9	12	401	381	20	20	20	-
AMERICAN SAMOA	-	-	-	17	17	-	-	-	-
AMERICAN SAMOA	-	-	-	209	199	-	10	17	-
COOK ISLANDS	17	9	8	22	22	-	-	-	-
FIJI	-	-	-	-	-	-	-	-	-
FRENCH POLYNESIA	-	-	-	-	-	-	-	-	-
GUAM	-	-	-	-	-	-	-	-	-
KIRIBATI	-	-	-	-	-	-	-	-	-
KIRIBATI	-	-	-	-	-	-	-	-	-
NEW CALEDONIA	-	-	-	62	57	-	5	5	-
NEW ZEALAND	4	-	4	42	38	-	4	-	-
NEW ZEALAND	-	-	-	-	-	-	-	-	-
PACIFIC ISLANDS TRUST TERRITORIES	-	-	-	31	31	-	-	-	-
PACIFIC ISLANDS TRUST TERRITORIES	-	-	-	31	31	-	-	-	-
MICRONESIA	-	-	-	38	31	-	-	-	-
MICRONESIA	-	-	-	1	1	-	-	-	-
PALAU	-	-	-	24	24	-	-	-	-
PALAU	-	-	-	-	-	-	-	-	-
SOLOMON ISLANDS	-	-	-	57	57	-	-	-	-
TONGA	-	-	-	1	1	-	-	-	-
TONGA	-	-	-	24	24	-	-	-	-
VANUATU	-	-	-	57	57	-	-	-	-
WESTERN SAMOA	-	-	-	198	198	-	-	-	-
WESTERN SAMOA	-	-	-	53	53	-	-	-	-
NORTH AMERICA	207	198	53	57	57	24	28	27	15
ALBERTA	552	552	53	1,250	1,232	-	18	17	-
ALBERTA	-	-	-	1,250	1,232	-	18	17	-
GREENLAND	-	-	-	24	24	-	-	-	-
MEXICO	42	18	24	1,877	1,860	-	91	75	-
MEXICO	-	-	-	1,877	1,860	-	91	75	-
MEXICO & MICHELON	25	9	16	1,647	1,498	-	149	51	45
CARIBBEAN	-	-	-	-	-	-	-	-	-
ANGUILLA	-	-	-	32	35	-	3	1	-
ARUBA	4	1	3	30	38	-	8	1	-
ARUBA	-	-	-	30	38	-	8	1	-
BAHAMAS	-	-	-	25	25	-	1	1	-
BAHAMAS	-	-	-	25	25	-	1	1	-
BERMUDA	1	1	-	40	38	-	2	1	-
BERMUDA	-	-	-	40	38	-	2	1	-
BRITISH VIRGIN IS	-	-	-	60	60	-	10	10	-
CAYMAN ISLANDS	-	-	-	18	18	-	1	1	-
CUBA	22	2	2	18	18	-	3	3	-
DOMINICA	-	-	-	18	18	-	1	1	-
DOMINICA	-	-	-	18	18	-	1	1	-
GUADALOUPE	-	-	-	107	106	-	-	-	-
GUADALOUPE	-	-	-	107	106	-	-	-	-
HAWAII	-	-	-	-	-	-	-	-	-

See footnotes at end of table.

COUNTRY OF CITIZENSHIP	L2	N1-N9	PAROLEES				R4	R5	UN- KNOWN
			TOTAL	R1	R2	R3			
SOUTH AFRICA.	47	1	35	20	4	11	5		
SWAZILAND	-	-	3	2	-	5	-		
TOGO	-	-	5	-	4	1	1		
TONGA	-	-	5	-	-	-	-		
TUNISIA	1	-	5	2	1	2	2		
WESTERN SAHARA	-	-	5	-	-	-	1		
ZAMBIA	7	-	5	1	-	3	1		
ZAIRE	-	-	1	-	-	-	-		
ZIMBABWE	7	-	2	-	-	-	-		
OCEANIA	324	11	200	40	95	65	49		
AMERICAN SAMOA	-	-	-	-	-	-	3		
AUSTRALIA	259	10	81	22	32	27	17		
FIJI ISLANDS	1	-	16	2	6	8	3		
FRENCH POLYNESIA	-	-	-	-	-	-	-		
KIRIBATI	-	-	1	-	-	-	-		
NAURU	-	-	1	-	-	-	-		
NEW ZEALAND	59	1	44	10	25	9	19		
PACIFIC IS. TRUST TER	-	-	8	2	6	2	2		
(T) PACIFIC ISLANDS	-	-	2	-	-	-	-		
MICROONESIA	-	-	2	-	-	-	-		
PALAU	-	-	4	-	-	-	-		
PAPUA NEW GUINEA	4	-	-	-	-	-	-		
SAO TOME AND PRIN ISLANDS	1	-	25	4	14	-	2		
TONGA	1	-	-	-	-	-	-		
TUVALU	-	-	-	-	-	-	-		
WALLIS & FUTUNA ISLANDS	-	-	24	2	12	10	3		
WESTERN SAMOA	-	-	-	-	-	-	-		
NORTH AMERICA	1,034	128	741	153	1,534	1,703	1,235	59	
CANADA	595	179	1,435	131	1,534	7,362	2		
UNITED STATES	270	28	6,009	245	911	4,853	380		
MEXICO	-	-	1,407	24	223	960	1,218	58	
ST. PIERRE & MIQUELON	52	15	2	-	-	-	-		
ANGUILLA	-	-	2	-	-	-	-		
ANTIGUA	-	-	2	-	-	-	-		
BARBADOS	1	2	57	2	3	52	16		
BAHAMAS	1	-	27	-	17	17	1		
BELIZE	5	-	5	-	2	2	8		
BST FISH VIRGIN IS	-	-	-	-	-	-	-		
CAYMAN ISLANDS	-	-	395	19	20	246	1,215	38	
CUBA	15	2	9	-	3	34	14		
DOMINICA	10	1	20	21	81	39	1		
DOMINICAN REPUBLIC	-	-	-	-	-	-	-		
GUADALUPE	-	-	280	30	43	180	197	32	
HAWAII	3	6	280	30	43	180	197		
MARTINIQUE	-	-	-	-	-	-	-		
MONTSERRAT	-	-	3	1	1	1	2		
PUERTO RICO	-	-	1	-	-	-	-		
51 KITTIS-NEVIS	-	-	6	-	-	-	-		

See footnotes at end of table.

**UNITED STATES-CANADA FREE-TRADE AGREEMENT
STATISTICS FOR CALENDAR YEAR 1991**

TEMPORARY ENTRY CLASSIFICATIONS

PROFESSIONALS TC	INTRACOMPANY TRANSFEREES	TREATY TRADERS E-1	INVESTORS E-2	BUSINESS VISITOR/B-1	DEPENDENTS OFTC (TB)	DEPENDENTS OFL-1
8971	5325	292	2366	15692	639	3629
TOTAL						

**NOTE: THE FOLLOWING PAGES PROVIDE A BREAKDOWN BY OCCUPATION FOR TEMPORARY
ADMISSION FOR THE PROFESSIONAL (TC) AND INTRACOMPANY TRANSFEREE (L-1)
CLASSIFICATIONS.**

Canadian nonimmigrant arrivals by occupation and selected class of admission

Occupation	Professional worker US/Canadian Agreement (TC)	Spouses and Children of Canadian workers (TB)	Intra- company transferees (L1)	Spouses and children of intra- company transferees (L2)	Treaty traders, children (E1)	Treaty investors, spouses and children (E2)	Visitor for business (B1)	Visitor for pleasure (B2)
All occupations	8,971	639	5,325	3,629	292	2,366	15,692	16,317
Executive, administrative, professional occupations	1,231	1	1,992	-	-	-	-	-
Professional occupations	5,091	4	454	-	-	-	-	-
Engineers, architects, surveyors	1,167	-	283	-	-	-	-	-
Engineers	47	-	8	-	-	-	-	-
Architects	31	-	-	-	-	-	-	-
Surveyors	15	-	-	-	-	-	-	-
Technical occupations	78	-	25	-	-	-	-	-
Electrical & electronic engineers	2	-	21	-	-	-	-	-
Industrial engineers	76	-	-	-	-	-	-	-
Mechanical engineers, including architectural engineers and naval architects	62	-	11	-	-	-	-	-
Metallurgical & materials engineers	14	-	-	-	-	-	-	-
Chemical engineers, including engineers, unspecified or no elsewhere classified	933	-	238	-	-	-	-	-
Computer/mathematical scientists	290	-	55	-	-	-	-	-
Natural scientists	329	-	51	-	-	-	-	-
Life scientists	171	-	25	-	-	-	-	-
Social, recreation, and religious workers	71	-	2	-	-	-	-	-
Social scientists and urban planners	79	-	5	-	-	-	-	-
Teachers, except college & university	153	1	3	-	-	-	-	-
Teachers, except college & university	10	-	6	-	-	-	-	-
Vocational and educational counsellors	11	-	3	-	-	-	-	-
Librarians, archivists, and curators	14	-	-	-	-	-	-	-
Health diagnosing or treating occupations	132	-	-	-	-	-	-	-
Dentists, optometrists	57	-	1	-	-	-	-	-
Podiatrists and other health occupations	27	-	-	-	-	-	-	-
Veterinarians and treating occupations	18	-	-	-	-	-	-	-
Health diagnosing or treating occupations	2,503	33	1	-	-	-	-	-
Registered nurses	2,348	-	-	-	-	-	-	-
Physicians, assistants, and physiotherapists	97	-	1	-	-	-	-	-
Pharmacists, excise physical therapists, and audiologists	56	-	-	-	-	-	-	-
Writers, artists, entertainers, and athletes	41	-	39	-	-	-	-	-
Performers, musicians, and composers	34	-	6	-	-	-	-	-
Editors, reporters, public relations, and advertising executives	2	-	3	-	-	-	-	-
Athletes and related workers	27	-	28	-	-	-	-	-
Marketing and sales personnel	251	-	95	-	-	-	-	-

See footnotes at end of table

Canadian nonimmigrant arrivals by occupation and selected class of admission
Calendar Year 1991-Continued

Occupation	Professional workers US/Free Trade Agreement (1C)	Spouses and children of Canadian trade workers (1B)	Intra- company transferees (L1)	Spouses and children of intra- company transferees (L2)	Treaty spouses and children (E1)	Treaty spouses and children (E2)	Visitor for business (B1)	Visitor for pleasure (B2)
Administrative support, including clerical occupations.....	12	-	52	-	-	-	-	-
Service occupations.....	-	-	23	-	-	-	-	-
Food service occupations.....	-	-	-	-	-	-	-	-
Food service occupations except private household.....	-	-	21	-	-	-	-	-
Personal service occupations.....	-	-	-	-	-	-	-	-
Farming, forestry and fishing occupations.....	21	-	11	-	-	-	-	1
Agricultural occupations.....	-	-	-	-	-	-	-	-
Marine, life, scientific and other occupations.....	10	-	1	-	-	-	-	1
Forestry and logging occupations.....	11	-	10	-	-	-	-	-
Repair occupations.....	2	-	28	-	-	-	-	-
Mechanics and repairers.....	-	-	14	-	-	-	-	-
Electricians.....	-	-	10	-	-	-	-	-
Extractive occupations.....	1	-	9	-	-	-	2	-
Precisions production occupations.....	-	-	-	-	-	-	-	-
Operative occupations, and laborers and helpers.....	-	-	3	-	-	-	-	-
Machine operators and tenders.....	-	-	5	-	-	-	2	-
Transportation occupations.....	-	-	14	-	-	-	-	-
Transportation and material moving occupations.....	9	528	185	-	-	-	-	1
Non-manual occupations.....	4	343	108	-	-	-	-	-
Homemakers.....	5	-	-	-	-	-	-	-
Students and/or children under age 16.....	2,437	-	2,583	-	292	-	15,690	16,315
Occupation unknown or not reported.....	-	-	-	-	-	-	-	-

- Represents zero
SOURCE: Statistics Division, U.S. Immigration and Naturalization Service

Mr. MAZZOLI. Am I not correct that they entered without any labor certification whatsoever? Is that correct?

Ms. MEISSNER. I believe that is correct.

Mr. KATZ. But that is not going to be true——

Mr. MAZZOLI. I said by Canada. Please, let me just get my ideas together.

Is that not true with Canada, neither a labor attestation nor a labor certification? Is that correct? They simply show up at the border, they have their qualifications, job offer, and the baccalaureate degree; and they walk in, never to be heard from again.

Is that correct?

Ms. MEISSNER. Well, I mean never to be heard from—the assumption is that they are here, and they are doing what they are supposed to do.

Tracking them——

Mr. MAZZOLI. That employer has never tested the marketplace for whether or not that individual with that baccalaureate degree is really, in fact, the only one in the vicinity to do the job. That was never tested.

Is that correct, Mr. Katz?

Mr. KATZ. That is not tested.

Mr. MAZZOLI. That is not tested. So what we are saying is that admission is limited to 5,500 for professionals. But that limit can be changed 1 year later. And 3 years later it is gone; there is no limit so that you can have thousands upon thousands—apocalyptic—but thousands upon thousands of Mexican baccalaureate degree holders who present themselves at El Paso and say, look, I got a job offer from the XYZ Co. to do cartography or to do whatever. And they must let you in, right? Correct?

Mr. KATZ. Well, over the first 10 years, there will be attestation requirements in the Mexican program.

Mr. MAZZOLI. In the first program. So there is an attestation so that this XYZ Corp. will have to make a labor attestation in that first period.

Mr. KATZ. Yes.

Mr. MAZZOLI. So that distinguishes that from Canada. Canadians still don't have that.

What is the justification for treating Mexico differently?

Mr. KATZ. This was negotiated before I——

Mr. MAZZOLI. Well, why differently?

Ms. MEISSNER. I think the justification is that there is a clear difference between Canada and the United States as between the United States and Mexico where—where differences are concerned.

Mr. MAZZOLI. What is the difference? I mean they are human beings, and they have a baccalaureate degree. They are part of the free trade operation.

Ms. MEISSNER. I think where Canada is concerned, it was the clear assumption—and it has been proven out in practice—that there would not be any inordinate attraction. It is not a phase-in situation with Mexico.

Mr. MAZZOLI. I appreciate that. I have used all my time, and I have exhausted your patience and my colleagues' patience. Thank you all very much.

Our next panel is Ambassador Diego Asencio, the former Chairman of the Commission on International Migration and Cooperative Economic Development; Ms. Cecilia Munoz, senior analyst for the National Council of LaRaza; Mary Jo Marion, trade policy analyst of the NCLA; Dr. Demetrios Papademetriou, senior associate, Carnegie Endowment for International Peace; and Mr. Sidney Weintraub, director, Simon Chair, the Center for Strategic International Studies.

I may not have mentioned it with the first panel, but I will mention to the reporter, that all of the statements will be made a part of the record, and the same with this panel now.

Ambassador Asencio, welcome. And we will be happy to have your testimony.

STATEMENT OF AMBASSADOR DIEGO ASENSIO, FORMER CHAIRMAN, COMMISSION ON INTERNATIONAL MIGRATION AND COOPERATIVE ECONOMIC DEVELOPMENT

Mr. ASENSIO. Thank you, Mr. Chairman. I have a certain sense of deja vu here.

Mr. MAZZOLI. Deja vu all over again. The only thing different, your tie is different today.

Mr. ASENSIO. I was going to comment. The other difference, I am saddened to hear that you are retiring. But I think that is the passing of an era.

Mr. MAZZOLI. I have really enjoyed it and loved it. Maybe now I can visit Palm Beach County, I haven't been there for a long time.

Mr. ASENSIO. Obviously, a lot of references were made to the Commission for the Study of International Migration and Cooperative Economic Development. And I thought it would be a good idea at least to outline some of the Commission thoughts. And, obviously, I was making notes to myself. So what I was going to say has changed considerably just hearing my predecessors.

Mr. MAZZOLI. Good. Let me just interject, I hope that you might address that, because our first panel obviously received a lot of questions from different angles, and that reflects the concerns that some of us have.

So I appreciate that. Thank you.

Mr. ASENSIO. I would like to start by saying the Commission was, of course, created by the Immigration Reform and Control Act, and the idea was to study specifically the push factors that cause undocumented immigration. And we were given a mandate of cooperating with the Government of Mexico and other sending states.

In doing our studies, we did 3 years of research. I think we—not only with Mexican researchers but with American researchers, we had a lot of material to digest and we came up with some interesting conclusions.

One of them, and I state that first, was that the best, most viable option in terms of reducing the push factors, the so-called expulsion factors as the Mexicans call them, was by an accelerated rate of economic development and with a free trade arrangement as the catalyst to bring that about.

Now, why did we come out in that general direction? I think that would respond to some of the questions that were asked. I, with all

due respect, don't share the opinion that hardening at the border is a viable approach, essentially because—well, a couple of factors. One, we are talking about 2,000 miles. Although I agree that there are a number of areas that, for geographic or topological reasons, are not passable. But my understanding of the El Paso blockade is that you have an officer standing every hundred yards. I don't think that is terribly sustainable.

But even that begs the question, because one of the more interesting facets that we looked at the time we were studying this is that you are talking about 250 million crossings a year. That is, legitimate crossings of people on that border. And you are also, right now, talking about \$75 billion in trade that is going back and forth.

I recall other attempts at hardening the border. I think the most obvious example was the Customs blockade that occurred after the killing of our DEA agent, Mr. Camarena. And this was not sustainable because suddenly there were four U.S. Governors on our side complaining about the fact that we were interrupting legitimate commerce also in addition to whatever aspects we were trying to display by that array of force.

So I would think that the blockade approach might have some symbolic value, but I really don't think that anything that would eliminate the expulsion factors can be accomplished by enforcement. I don't think enforcement is the answer.

I would say also that the issue of the long term, short term, and the impact of a NAFTA has to be looked at very, very carefully. Our research showed that the economic development process itself is destabilizing. That is, when you modernize an economy, when you have economic progress, there is a tendency on the part of people to move. So it is not NAFTA that is causing them to move. It is progress, economic progress that is causing them to move. And that is something that, you know, if you rail against that, you are railing against, it would seem to me, inexorable economic laws. I don't think that this is something that is really relevant to this kind of discussion.

What is relevant is, if you agree that an increasing rate of economic development would have a beneficial effect on the expulsion factors, then you pay certain prices in arriving at that point. One of them is that we might have the kinds of pressures that were talked about here.

Now, obviously, there are things that could mitigate those pressures. For instance, I would think that one of the points made, and that is with regard to work law enforcement, I think that is splendid. We don't have a very good record in that regard. But if there is something that could be done to enforce that in a more effective way, I am all for it.

I think the employer sanctions is still a viable idea, not as it is currently employed in the United States. I think it hasn't worked very well. If there is something that could make that work well, some sort of an identification system, that would be splendid too.

What we were saying in our Commission report is, seeing the shortfalls and seeing the problems that were caused by our attempts, it would seem to me that our best bet still, and our best advantage as a society, would be to make certain that our neighbors were in a position to prosper, not as a result of throwing buck-

ets of money at them but as a result of something that we have been advocating certainly since my time in the Foreign Service. And that is not aid but trade, some way of working them into a system where they, in fact, could benefit and we could benefit.

The other aspect that I think is worthy of attention is what the NAFTA represents in terms of United States-Mexican relations. To me, the virtue of NAFTA—and I think we were the first Commission that advocated such a system. Although obviously we only got a positive response on the Mexican side; the United States response came after the Mexican response. Relations between Mexico and the United States have traditionally been governed by an old adage attributed to the poet Lopez Velarde: "Poor Mexico, so far from God and so close to the United States." The closeness to the United States was seen as a problem.

What President Salinas has done is reversed that procedure and consciously sought the economic integration of the Mexican economy with the economy of the United States, seeking obviously this huge market that we represent. That was an exceptional act of courage. That was something that I would never have predicted a few years back. We, in fact, began to consider that as the potential solution.

But I must say, when the Commission started, I had my doubts as to whether we could ever achieve a situation where, on the Mexican side, that would be acceptable as a policy. I, of course, was surprised to see then when they accepted it, we began to draw back, which is, I guess, part of some sort of an international dance or tactic. But that is neither here nor there.

What I am saying is, to me, in some 30-some-odd years in the Foreign Service and in following things in Mexico, this was the most positive act I have ever seen in terms of United States-Mexican relations. Taking it beyond that aspect, clearly the impact on the hemisphere has been exceptional. Everybody is waiting to see what we are going to do with NAFTA. And everybody, if we agree on NAFTA, is going to want to participate. And we are also talking about other sending Nations. So it does have an immigration impact. And it would seem to me that we are symbolically responding to a major initiative perhaps in a terribly negative way if we turn down NAFTA in the sense that I think what they are really asking us is, do you really love us? And if the answer is, no, I think the reaction is going to be highly negative. I think not only in Mexico but in other Nations. And we may, in fact, have a reversion to the old "Poor Mexico, so far from God and so close to the United States."

The other aspect that I would like to just mention briefly is—I think which was touched upon and maybe sort of internally discussed here—and that was what happens if there is no NAFTA?

One of the things that one could anticipate is—and I am trying not to be apocalyptic. I don't think apocalypses helps, even as an example. But very minimum, I think there would be a devaluation. I think there would—there certainly would be capital flight, and there certainly would be an economic downturn.

That devaluation would mean that the current factor of 7 or 10 to 1, depending upon how one looks at it in terms of the salary differential, would increase. That would also give you a tremendous

push in terms of the expulsion factors. And this is something to consider.

So I guess what I am telling you is, you are going to have those pressures whether or not NAFTA passes. There is a study in Mexico that says within a 15-year period of time, the salary differential will be reduced to 5 to 1. And that is generally the figure that has been used historically in other sending nations in the world as a turning point. Italy, Spain, Portugal, all of the European migrations had at least a generation before they stopped exporting people and, in fact, became net importing countries of immigration. So I think the history will also show that that would be the case here.

Mr. MAZZOLI. All right. Good. Thank you very much, Mr. Ambassador.

Ms. Munoz.

STATEMENT OF CECILIA MUNOZ, SENIOR ANALYST, NATIONAL COUNCIL OF LaRAZA, ACCOMPANIED BY MARY JO MARION, TRADE POLICY ANALYST

Ms. MUNOZ. Thank you very much, Mr. Chairman. It is a pleasure to appear before the subcommittee again today. I would like to introduce my colleague, Mary Jo Marion, who has been working very hard on the free trade agreement.

NCLR is particularly concerned with a couple of aspects on the discussion on NAFTA and immigration. We believe, first, that a thoughtful and constructive debate must include an honest assessment of its possible short-term and long-term effects on migration, as the subcommittee has been looking at today.

We also believe very strongly that the NAFTA debate has critical, substantive, as well as symbolic importance for Latinos and the United States. The discussions between NAFTA—discussions on NAFTA and related issues represent a breakthrough between the United States and Mexico. And we think the debate on the agreement reflects the willingness of policymakers on both sides of the issues to treat the issues themselves and the people affected by them both respectfully and thoughtfully.

The subcommittee has been taking a look at the short-term effects which are being attributed to NAFTA. There has been a lot of attention paid by academics on the potential short-term effects, and we agree with the majority, that there will be some displacement in Mexico in the short term. We believe there is significant disagreement about how much of that is actually attributable to NAFTA.

We believe that some of the displacement which will be occurring in Mexico is attributable to economic changes which are already under way in that country. We believe that some of the studies overestimate the effect of NAFTA on that displacement and that they underestimate the effects of the transition period, for example, in the agricultural industry and the likelihood that people will be able to make adjustments and, therefore, not be as dramatically displaced as many people expect.

We also believe that many of the estimates are exaggerated in that they don't take into account the positive affects of the agreement on job creation and increasing wages. And we also believe very strongly that displacement within Mexico does not automati-

cally mean migration to the United States. There may very well be pressure to migrate, and we believe that some of that, and even much of that pressure, is likely to be absorbed within Mexico as jobs are created and as sectors of the economy shift.

So we believe that there may be short-term increases in migration. We think that they are likely to be modest. And I think, as Ambassador Asencio has said, we think that there are likely to be short-term increases with or without NAFTA. And that what is very much at issue are the long-term effects of the agreement.

We agree very much with the Commissioner of the Immigration Service when she states that NAFTA is really the best policy proposal currently on the table—or that we have seen, in fact, in decades—which has a chance of promoting economic development and decreasing the long-term incentives for migration.

We are troubled by the reluctance of some of the folks on the subcommittee to look at the long-term issues and instead focus on the potential for short-term increases in migration.

We believe that some of the alternatives which are being proposed by some of the members of the subcommittee to control immigration in the long term are in fact long-term proposals.

I would argue, for example, that some kind of ID card is not necessarily a quick fix and that, in fact, if we are talking about that as a solution to migration problem, what we are talking about is something which is in terms of how long it will take to enact, to implement, to issue, is costly and very likely to take a number of years before it is in place, let alone before it is effective.

Ultimately, when we are talking about the migration issue, I think we are talking about long-term solutions; and NAFTA must be weighed against worksite enforcement, ID cards, and things like postconstitutional amendments which some members of this committee have endorsed as a long-term solution.

Ultimately, this country is focused on enforcement measures in its attempts to control immigration. In the last 10 or 15 years, those enforcement measures have not solved the problem. In fact, they have not changed the problem very measurably.

We argued during the debate over IRCA that, in order to have a sensible immigration policy, the country needed to look beyond simply enforcement measures and that the most important place to look was at economic development in the major sending countries. And, obviously, Mexico is a major contributor of undocumented immigration to the United States.

The enforcement strategies. We need to continue to embark upon enforcement strategies, but they need to be sensible. And as has been said before the subcommittee many times, they need not come at the expense of the civil rights of major communities in the United States. That argues very strongly that we must take seriously NAFTA's potential to increase development within Mexico and to, therefore, decrease incentives to migrate.

We were very pleased to see the administration unveil the proposed North American Development Bank which we believe is an important part of the overall strategy of both increasing wages, creating jobs within Mexico, and engaging in specific development-focused projects on both sides of the border. We think that that can have an enormous impact in decreasing incentives to migrate.

We strongly support the overall agreement, and we strongly support the North American Development Bank. One of the major reasons for that is because we believe ultimately this is the best solution we have seen in decades to the long-term questions of migration and that ultimately we need to be addressing these issues in the long term.

In conclusion, Mr. Chairman, it has never been more clear to us that cooperation between the United States and Mexico is essential if we are going to get a handle on the migration issue.

We think NAFTA has opened a lot of doors between the two countries. We believe that the economic potential of the agreement is incredibly important in the long-term debate on migration from Mexico to the United States.

Quite frankly, we don't think the United States can expect full cooperation from Mexico if we basically thumb our noses at what is the major and courageous initiative undertaken by the Mexican Government. And we think this agreement represents absolutely that.

Thank you for the opportunity to testify. And the two of us look forward to your questions.

Mr. MAZZOLI. Thank you very much.

[The prepared statement of Ms. Munoz and Ms. Marion follows:]

**STATEMENT OF CECILIA MUNOZ and MARY JO MARION
NATIONAL COUNCIL OF LA RAZA
NAFTA AND IMMIGRATION
NOVEMBER 3, 1993**

I. INTRODUCTION

Good morning Mr. Chairman and members of the Subcommittee, I am Cecilia Muñoz, Senior Immigration Policy Analyst at the National Council of La Raza (NCLR). I am joined by Mary Jo Marion, NCLR's Trade Policy Analyst, who has been analyzing the North American Free Trade Agreement (NAFTA). NCLR is the nation's largest constituency-based national Hispanic organization. The Council serves as a national umbrella organization for over 160 local "affiliates" — Hispanic community-based groups which provide employment, education, health, housing, immigration, and social services to over two million Hispanics annually. NCLR appreciates the Subcommittee's interest in the immigration implications of NAFTA; there has been a great deal of discussion and no small amount of confusion about the likely effects of the agreement on migration to the U.S. from Mexico.

NCLR is particularly concerned with two aspects of the discussion on NAFTA and immigration. First, a thoughtful and constructive debate on the agreement must include an honest assessment of its possible short-term and long-term effects on migration. NCLR has long argued that the U.S. must look at trade and economic policies aimed at development within Mexico if we are to address the root causes of migration. Second, the NAFTA debate has critical substantive and symbolic importance for the Latino community in the United States. The very discussions on NAFTA and related issues represent a breakthrough in the

relationship between the U.S. and Mexico; the debate on the agreement reflects the willingness of policy makers on both sides of the issue to treat the issues and the people affected by them respectfully and thoughtfully. As we well know in the immigration debate, it is not unusual for misinformation and even bigotry to emerge in the debate of complex and difficult issues; while there is plenty of room for legitimate disagreement on NAFTA, the tone of that debate profoundly reflects the nation's ability to treat Mexico, and people of Mexican heritage in the United States, with fairness and respect.

II. MIGRATION IMPLICATIONS OF NAFTA

A. *Short-Term Implications*

There is widespread agreement that in the short term, NAFTA -- in addition to economic changes already underway within Mexico -- is likely to lead to displacement of workers within certain industries in Mexico, and therefore increased migration either to Mexico's urban centers, or to the United States. Academic research has particularly focused on changes within agriculture, a sector of the Mexican economy which is likely to be substantially transformed over the next 20 years. Though there is widespread agreement on the overall effects of these economic changes on the agricultural sector within Mexico, there is substantial disagreement on the extent of the migration which is likely to result.

First, there are significant questions about how much migration is actually likely to be spurred by NAFTA itself. Many of the changes in the agricultural sector are already underway, the result of Mexican policies which are not connected to the agreement. For example, the privatization of farms and reductions in agricultural subsidies are already

transforming agriculture in Mexico. Some studies which suggest that NAFTA will result in substantial displacement and therefore significant increased migration are attributing the results of a combination of policies exclusively to NAFTA.¹

In addition, estimates of massive migration resulting from changes in the agricultural economy in Mexico fail to take into account various sources of income for those within the newly privatized *ejido* system. Some estimates suggest that *ejidatarios* get 10% to 20% of their income from grains, with additional income coming from other crops or from sources not related to farming.² Even if agricultural changes associated with NAFTA were to become effective immediately, they would not have the overwhelming effect on *ejido* income that some suggest. In addition, under NAFTA the tariff rate changes on the most sensitive Mexican crops will be phased in over a 10 to 15 year transition period; which is likely to mean that those affected will make gradual transitions in sources of income rather than suffer swift and harsh displacement; which is likely to mean that those affected will make gradual transitions in sources of income rather than suffer swift and harsh displacement.

In addition, NCLR believes that no econometric model, such as those which attribute substantial possible increases in migration to NAFTA, can effectively take into account new jobs which are likely to be created by the agreement and offset displacement in other sectors of the economy. It is not a foregone conclusion that persons who are affected by economic

¹ See for example, "Alternative Scenarios of U.S.-Mexico Integration: A Computable General Equilibrium Approach," Raúl Hinojosa-Ojeda and Sherman Robinson, Working Paper No. 609, University of California, Berkeley, 1992.

² See for example *The Uncertain Connection: Free Trade and Mexico-U.S. Migration*, Wayne A. Cornelius and Philip L. Martin, Center for U.S.-Mexican Studies, University of California San Diego, 1993.

restructuring in Mexico will automatically conclude that they will fare better in the United States. While there will clearly be some displacement, much of it is likely to be absorbed within Mexico itself. To the extent that there is increased migration, it is not likely to differ substantially from current streams of undocumented migration. Estimates by the Immigration and Naturalization Service (INS) and the Bureau of the Census suggest that the vast majority of migrants who enter the U.S. illegally are part of a temporary stream which goes back and forth between the U.S. and Mexico. These estimates suggest that only between 200,000 and 300,000 migrants enter the U.S. illegally each year with the intention of residing here. This figure is dramatically lower than the total number of apprehensions at the border. Much of undocumented migration to the United States is temporary, rather than permanent; short-term increases associated with NAFTA are likely to be modest and to reflect this overall pattern.

Moreover, these same econometric model fail to take into account the development of mitigating public policies. For example, it is entirely conceivable that Mexico will develop programs and policies to re-integrate displaced farm workers into the Mexican economy.

B. Long-Term Implications

While much of the discussion on NAFTA and migration has focused on the likelihood of short-term increases in undocumented migration, NCLR believes very strongly that the agreement is an absolute prerequisite to reducing incentives for migration over the long term. NCLR has consistently argued for long-term policy approaches which address the "push factors" associated with migration, because they are both more likely to be effective in reducing migration and less likely to be harmful to communities within the United States than many immigration control measures already enacted or currently under consideration. We

worked with Representative Bryant, a member of this Subcommittee, to include a provision in the Immigration Reform and Control Act (IRCA) to create a commission which would investigate the possibilities of a long-term economic approach to curbing migration. That commission, the Commission for the Study of International Migration and Cooperative Economic Development, issued a report in July of 1990 which supports NCLR's view that economic development is the key to reducing migration in the long term. This report concluded that the search for economic opportunity is the primary motivation for unauthorized migration, and that job-creating economic growth in the native countries of migrants is ultimate solution to reducing migratory pressures.³ Critical to NCLR's support of NAFTA is the conviction that the agreement is central to accomplishing this overall goal.

NCLR believes that NAFTA will stimulate the Mexican economy and encourage a return of foreign capital to Mexico, thereby creating jobs. In addition, a report by the U.S. International Trade Commission concludes that free trade will increase wages in Mexico, thereby decreasing the wage gap between Mexico and the United States.⁴ There is widespread agreement that improving wages in Mexico will significantly decrease pressures for migration, even if a significant difference between wages in the two countries remains.⁵ Several studies suggest that a "hope factor" created by a gradual increase in wages and job opportunities within Mexico over a decade or so is likely to substantially reduce incentives

³ *Unauthorized Migration: An Economic Development Response*, Report of the Commission for the Study of International Migration and Cooperative Economic Development, July 1990.

⁴ *Review of Trade and Investment Liberalization Measures by Mexico and Prospects for Future U.S.-Mexican Relations, Phase I and II*, U.S. International Trade Commission, 1990.

⁵ "Implications of a North American Free Trade Agreement for Mexican Migration into the United States," Dolores Acevedo and Thomas Espenshade, *Population and Development Review*, Volume 18, No. 4, December 1992.

for migration.⁶ NCLR has consistently argued that migration from Mexico to the United States is more driven by economic conditions within Mexico than by so-called "magnets" within the U.S.; NAFTA is the first policy proposal in decades which offers the prospect of economic development within Mexico and therefore long-term reductions in migration.

In addition to job creation and wage increases resulting from the agreement itself, NCLR strongly supports the Administration's intention to create a North American Development Bank (NADBank) as part of the overall NAFTA package. The proposed NADBank is a regional lending institution designed to finance, coordinate, and implement border and non-border community development, infrastructure, and environmental projects. The Bank is specifically designed to invest in the social, environmental, and physical infrastructure that will be needed to bring about an upward convergence in social standards in Mexico and the United States. NCLR believes that the \$3 billion lending capacity of the NADBank, as well as its ability to leverage private and public funds will generate an estimated \$20 billion, part of which will be dedicated to development projects along the border and within Mexico. NCLR strongly supports the NADBank as a critical component of the overall NAFTA "package," which will create the first substantial opportunity to promote development within Mexico, particularly in communities where migrants traditionally originate.

NCLR also believes that the \$2 billion for NAFTA-related expenditures granted to Mexico from the World Bank will also assist Mexico in attaining sustainable development. In

⁶Cornelius and Martin, *op. cit.*

particular, these funds could be used to offer alternatives for displaced Mexican agricultural workers.

III. NAFTA AND LONG-TERM IMMIGRATION CONTROL STRATEGIES

A. *The Failure of Enforcement Strategies to Control Migration*

This Subcommittee is well aware of the intensity of the current immigration control debate and the profusion of proposals aimed at "fixing" the problem of undocumented migration. U.S. immigration policy has traditionally focused on enforcement measures which operate within the United States to control the so-called magnets which many believe attract undocumented migrants. Over the years, this Subcommittee has considered various measures, including border enforcement, curtailment of public benefits, interdiction and detention of migrants, and, of course, employer sanctions. There are even more extreme measures currently on the table, including amendments to the Constitution and the elimination of all legal immigration. The experience of the last decade, especially in the years following the enactment of IRCA, suggest that there are profound limitations to an exclusive enforcement approach. Bluntly put, the enforcement measures of the last ten years have failed to control undocumented migration; in fact, levels of migration appear to be almost exactly what they were when some of the harshest policy proposals were being debated. At a minimum, this suggests that Congress must look at new approaches to control migration which move beyond the traditional enforcement approach. NCLR believes that NAFTA presents an important opportunity to address the "push" factors in a way which may ultimately be more effective than all enforcement approaches combined.

B. *Alternatives for Meaningful Immigration Reform*

NCLR recommended to this Subcommittee in a hearing last June that it adopt a combination of policy proposals as an alternative to the failed employer sanctions policy. These proposals included: enhanced and more professional border enforcement; vastly increased labor law enforcement targeted at industries which traditionally rely on undocumented labor; and economic development in sending countries.⁷ NCLR continues to believe that this combination of proposals is ultimately more likely to be effective in controlling undocumented immigration than the failed employer sanctions policy without the disastrous civil rights side effects which employer sanctions have created.

NAFTA is the first policy proposal in recent memory which offers substantial progress toward the third -- and perhaps most important -- of NCLR's proposed alternatives. The evidence is clear that the root causes of migration are economic conditions in sending countries. The experience of Salvadoran immigration to the United States perhaps best illustrates the dramatic effect that changes in conditions at home can have on migration to the U.S. During the civil unrest in El Salvador and Nicaragua, the U.S. tried a variety of tough enforcement measures to control undocumented migration coming from these countries, in addition to migration coming from Mexico and other parts of the world. The range of policies adopted during this period includes interdiction of migrants within Mexico, the denial of most asylum claims, the establishment of detention camps on the border, raids in communities where migrants live, and the employer sanctions policy. Ultimately, these policies did very little to deter migrants from coming, because conditions in their own

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"Statement of Cecilia Muñoz, National Council of La Raza, before the Subcommittee on International Law, Immigration and Refugees," June 16, 1993.

countries determined their actions much more than conditions in the U.S. It was the changes in the political situations in El Salvador and Nicaragua which slowed migration from those countries from a significant flow to a near trickle today. In fact, some would argue that many of today's migrants are going south, from the U.S. back to Central America. This experience highlights what NCLR believes to be true of migration from any country, especially Mexico; if economic conditions which encourage migration change, even modestly, the pattern of migration is likely to decrease. NCLR believes that NAFTA is a vital component of an overall strategy to effectively control migration; failure to enact the policy leaves us only with enforcement proposals which have demonstrably failed in the past.

IV. CONCLUSION

In conclusion, NCLR urges the Subcommittee to consider NAFTA carefully as an important strategy in the overall immigration control debate. The long-term potential of NAFTA to reduce migration is critical to accomplishing goals articulated by over a decade of immigration research, that long-term economic development in Mexico is the most effective means of immigration control. NCLR strongly believes that NAFTA is a prerequisite to these long-term changes. In addition, it has never been more clear that cooperation between the United States and Mexico is essential to immigration control which is accomplished through economic development, as well as that which is accomplished through immigration enforcement. This new era of cooperation has already begun to unfold. Recently Attorney General Janet Reno met with her Mexican counterpart and in an official communique expressed an interest on the part of both countries to begin working on innovative approaches

with respect to immigration. The U.S. can hardly expect full cooperation from Mexico if it rejects this profound opportunity to build a relationship which treats the two nations for what they are, critical components of a region with inextricable economic and social links. For decades U.S. immigration policy has been made with an understanding that these links are ultimately economic, yet the policies enacted have focused on building barriers and conducting police activities. Enforcement of the U.S.- Mexico border is likely to continue to be necessary; however, the U.S. cannot afford to rely on enforcement measures alone if it is serious about border control.

Finally, NCLR urges members of the Subcommittee, whatever their views on the overall agreement, to encourage their colleagues to use caution in debate on NAFTA. NCLR has been monitoring the tone of the overall debate, and has publicly expressed concern about the individuals and organizations which have used innuendo and explicit Mexico-bashing in their arguments against the agreement. There is clearly room for legitimate disagreement on the effects of the agreement and the wisdom of adopting it; however, NCLR believes that rhetoric which provokes fear and bigotry against the Mexican people does not belong in the legitimate debate. Some unfortunate arguments parallel the immigrant-bashing which has also become part of the immigration control debate; very often, in fact, the arguments and rhetoric are the same. We urge the Subcommittee to exercise its leadership in promoting responsible dialogue on both of these critical issues.

We appreciate the opportunity to appear before the Subcommittee today, and look forward to answering any questions you might have.

Mr. MAZZOLI. Dr. Papademetriou.

STATEMENT OF DR. DEMETRIOS G. PAPADEMETRIOU, SENIOR ASSOCIATE AND DIRECTOR, IMMIGRATION POLICY PROGRAM, CARNEGIE ENDOWMENT FOR INTERNATIONAL PEACE

Dr. PAPADEMETRIOU. Thank you, Mr. Chairman. I will try to stick with overstatements and hyperbole, rather than apocalypses.

I have a statement which you have before you. And I am sure that you may have questions on it. What I will try to do, instead of summarizing that statement, is focus on a few of the points that arose from the debate that took place in the previous session.

Mr. MAZZOLI. Well, tell us a little something, because I thought your statement was interesting.

Dr. PAPADEMETRIOU. OK. I wasn't going to abandon it.

Mr. MAZZOLI. Two or three recommendations. One was in a footnote. And then you had two of them in the back of your paper that I thought were good.

Dr. PAPADEMETRIOU. So you would like me to start with my recommendations?

Mr. MAZZOLI. Were you going to get to those?

Dr. PAPADEMETRIOU. Yes, I was going to get to those, too.

Mr. MAZZOLI. Well, get to them in your own sequence; but just be sure you get to them.

Dr. PAPADEMETRIOU. OK. I will do so, Mr. Chairman.

On the question of what the NAFTA text does with regard to immigration, it creates certain opportunities within existing immigration law for people in the B-1, E, and L categories, as well as the H-1(B) category, which appears as a TC category for Canada, to enter and conduct their business in the United States.

It is the H-1(B) category that leads me to the recommendation that you referred to in my footnote on page 3. This is one component of a trade agreement which, in my view, does not properly belong there.

I cannot see a compelling argument that the ability of professionals from one country to enter another country or, in this case, professionals from the three countries to enter each others' territory and act as independent labor market units is a critical element in a trade agreement.

And the recommendation that I make in this regard is for this Congress, for this body, to make it clear to the administration that in the future, if additional trade agreements were to be negotiated using the NAFTA model, they should not include that particular option. And that goes directly to the question that you were insisting that our Trade Representative should answer.

Having observed and participated in trade negotiations I have come to the conclusion that frequently completing a deal becomes more important than paying attention to all the detail—leading to the impairing of judgment. When you negotiate with someone, you are expected to give something in order to get something. So the very existence of the TC category makes it virtually impossible not to negotiate something along these lines that is neither unfair nor discriminatory. In the NAFTA, the negotiators tried to devise a system whereby Mexico would have the opportunity to reach equal

treatment with Canada with regard to the movement of professionals but that opportunity would be withheld until some time in the future.

It is discriminatory. It is unfair. But that is how the negotiations took place.

On the issue of NAFTA and illegal immigration, it seems to me that we have had, in one sense, far too many projections about what may happen and far too little evidence about how things might happen.

For instance, we have heard repeatedly here about the judgment—the informed speculation, in my view—that the Commission that Diego chaired, the gentleman to my right, who was a Senior Research Director for that Commission, will agree with me as I quote from the Commission report that the basis for the Commission's finding on the relationship between development and migration is that: "Transformations intrinsic to the development process are at first destabilizing."

The relevant statement is the following: "They initially promote rather than impede migration." And the examples that the Commission used—because these were the only available ones—the principal examples the Commission looked at were the examples of Puerto Rico and of the European Economic Community.

I would submit to you, sir, that neither of these examples are particularly relevant for the specific situation we are likely to encounter in Mexico. The question of Puerto Rico is not relevant because Puerto Ricans are Americans. They can travel to the United States. They can migrate as they please. This was never offered to Mexico.

And the European Economic Community was built, in a sense, on an entirely different philosophical foundation than the one in which we negotiated with Mexico. In that agreement, the most developed parts of the European Community sought out the labor of the less developed parts. So the agreement, if you would allow me to suggest, was geared toward attracting this labor rather than following the NAFTA formula whereby, through investment, you try to keep Mexican labor at home.

I also think that we got awfully confused about what may happen in 5, 10, 20 years or whatever. It seems to me that the Attorney General got it just right when she wrote about a week ago: "That is how passage of the NAFTA will help me protect our borders. If the NAFTA passes, my job guarding the border will be easier. If the NAFTA fails, my job stopping the flow of illegal immigrants will become even more difficult." This is a simple statement, but one that eschews hyperbole or anything beyond that.

So with that, I can get to the other two recommendations. The first one is that you should make it very clear that if the administration were to negotiate another free trade agreement, the particular option of entry of professionals will not be available to the negotiators.

The other two recommendations are that—well, maybe I will find them—that the administration should not remove the restrictions—and by that I mean both quantitative restrictions and qualitative restrictions—from this TC category until it consults with at least three groups. One would be some sort of a group of experts on the

immigration issue; the second group should be made up of representatives of organized labor, and the third group should be members of this subcommittee as well as its sister committee in the other body.

The third recommendation goes back to this very soft, but, in my view, extremely important issue of cooperation with Mexico. I thought that it was interesting how you tried to at least think of the United States-Mexico relationship in exactly the reverse manner that I and many others think about it. And I am not saying that you are not raising a question. I am simply saying that I see NAFTA and the opportunity to cooperate on many issues between the United States and Mexico as nothing less than a downpayment to a long-term investment in a habit of cooperation on many issues.

I am a firm believer that such a habit of cooperation can lead to better border controls. It does not mean that somehow we are going to give up our sovereign right to control our borders or, for that matter, to do a much better job at controlling our labor markets than we have done to date.

But it seems to me that the administration needs to be encouraged to continue to push the envelope when it comes to this cooperation. I was highly encouraged by what we heard earlier about an upcoming announcement about such cooperation. But I will be very curious as to what exactly that is. And I will be very hopeful that something will be forthcoming.

Thank you, sir.

Mr. MAZZOLI. Thank you very much, Dr. Papademetriou.

[The prepared statement of Dr. Papademetriou follows:]

STATEMENT OF

DR. DEMETRIOS G. PAPADEMETRIOU

SENIOR ASSOCIATE & DIRECTOR
IMMIGRATION POLICY PROGRAM
CARNEGIE ENDOWMENT FOR INTERNATIONAL PEACE

BEFORE THE SUBCOMMITTEE ON INTERNATIONAL LAW,
IMMIGRATION, AND REFUGEES
OF THE JUDICIARY COMMITTEE
OF THE U.S. HOUSE OF REPRESENTATIVES

OVERSIGHT HEARING ON THE NORTH AMERICAN FREE TRADE AGREEMENT

November 3, 1993

INTRODUCTION

Mr. Chairman and Members of the Subcommittee:

Thank you for the opportunity to offer my views on the immigration-related components of the North American Free Trade Agreement (NAFTA). I hope that such views will be of value as you discharge your oversight responsibilities with regard to the immigration implications of this new chapter in the U.S./Mexico relationship.

Today, I will do four things. First, I will dwell briefly on the details of the one chapter of the NAFTA which has provisions directly relating to the U.S. Immigration and Nationality Act (INA) and thus fall under this Subcommittee's jurisdiction. My purpose in doing so is to explain the policy aims of that chapter and help you assess its provisions' implications for the U.S. immigration system. I will then comment on an issue of central interest to this body but one which has by now become totally confused in the politics surrounding the NAFTA, namely, the likely relationship between

the NAFTA and illegal immigration. Third, I will offer a few thoughts on the issue of managing the North American Relationship, mindful both of the fact that our ability to improve control of our borders is one of the Congress' (and this Subcommittee's) major concerns but also of the fact that the issue bears only a second order relationship to the NAFTA. I will conclude my presentation with some thoughts about specific provisions the Subcommittee might include either in the legislation implementing the NAFTA or in the Bill Report that will accompany that legislation in an attempt to address some of the issues being discussed here today.

A. THE "TEMPORARY ENTRY OF BUSINESS PERSONS" CHAPTER

The Chapter on the "Temporary Entry of Business Persons" is intended to facilitate the reciprocal entry of citizens of Canada, Mexico and the United States for business purposes. Similar commitments are included in Chapter 15 of the present U.S.-Canada Free Trade Agreement (U.S./CFTA).

There are four categories of business persons included in the "mobility" provisions of the NAFTA.

- Business Visitors (B-1 visa category). Business Visitors would enter to conduct activities related to research and design; growth, manufacture, and production; marketing, sales, and distribution; after-sales-service of equipment exported by each Party's producers; and certain other activities related to trade and commerce.
- Traders and Investors (E-1 and E-2 visa categories). Traders/Investors would enter to carry on "substantial" trade in goods or services or provide advice/key technical services to the operation of an investment activity.

- Intra-company Transferees (L-1 visa category). Multinational corporations would be able to transfer personnel in management and specialized skill areas freely among the party countries.
- Professionals¹ (INA section 214(e)). Certain categories of professionals would enter to provide their services into the territory of any of the other parties. Approximately 60 professions are currently on the U.S./CFTA schedule and are thus incorporated into the NAFTA. Included are persons in the Medical and Allied Professions entering to engage in teaching or research, Scientists, Architects, Engineers, Economists, Lawyers, and Librarians.

The U.S. negotiating approach on this chapter² was to pattern the agreement after our own legal and regulatory regimes --much as we had done with the free trade agreement with Canada a few years ago. The negotiating objectives were clear. The U.S. had to obtain a single set of stable and transparent commitments with which each of the parties could live both substantively and

¹The reciprocal entry of professionals in the territory of each of the parties is extremely controversial--as it should be. The relationship between enhancing commercial, trade and investment relationships and the entry of certain professionals to engage in independent remunerative activities whose relationship to a trade agreement is indirect and tenuous at best is very troubling. There is little doubt that increasing contacts between and among trade partners enhance broader understanding and lead to closer relationships--and that such relationships often translate into more trade and higher levels of investment. At the same time, however, offering such "concessions" in the context of a trade accord is a bad precedent which dates to the U.S./CFTA. I would strongly urge the Congress to consider the implications of this practice for the job opportunities and wage advancement of U.S. professionals in the event that this NAFTA were to serve again as the model for negotiations with other countries and to make clear to the Administration that it will no longer be able to support such provisions in future trade accords.

²I was fortunate to have had the opportunity to formulate the U.S. negotiating goals and strategy and to have helped negotiate the provisions of this chapter during my tenure with the Department of Labor.

politically.

These commitments had to provide clear access to our business persons, and to certain categories of our professionals wishing to engage in trade in goods and services,³ as well as in investment activities, in the territory of the other two parties. Simultaneously, the identical types of business persons and professionals who are nationals of the other two parties had to be offered opportunities for entry to the U.S. for the same set of business and related purposes without departing to any significant degree from current U.S. immigration law and practice. The Chapter you have before you meets these objectives.

Specifically, the United States set out to convey firmly to the Canadians that the NAFTA negotiations were not an opportunity for them to make gains which had proved elusive for them during the original negotiations of the Canadian/U.S. Free Trade Agreement and in the subsequent consultations the agreement requires. Exceptions would be made only if the changes were primarily nonsubstantive (administrative) in nature and of equal interest/value to the United States. Although it was not always

³For understandable reasons, U.S. firms wishing to engage in trade in goods and services, as well as in investment activities, see the liberalization in the entry of their business persons engaged in these activities as a critical outcome of a successful negotiation. As a result, in crafting the entry of such professionals, one must be mindful of the tension of negotiating the most favorable conditions for the entry of U.S. professionals while trying to stay within the parameters of what is possible for the entry of foreign professionals under U.S. immigration laws and regulations.

easy, the U.S. was able to hold firm in that regard.

The challenge the U.S. faced with the Mexicans was far more difficult and delicate. Two major obstacles--and a host of minor ones--had to be overcome.

First, the Mexicans had to be persuaded to accept disparate (inferior) treatment in certain of the terms of their access to the U.S. (when compared to Canada's access). This was necessary because of three reasons:

- The changed statutory environment since the U.S./CFTA was negotiated (because of the passage of the Immigration Nurses Relief Act of 1990 [INRA], which created the H-1A category, and the Immigration Act of 1990 [IA], which mandated dramatic changes in the H-1 category [by creating the H-1B, O, and P categories] as well as modest changes to the L visa);
- U.S. concerns about possible Mexican visa fraud (based on the fact that about one-third of visa applications from Mexicans are rejected as fraudulent); and
- Widespread, if totally unfounded, fears that the NAFTA might allow the entry of lower-skilled and -educated Mexican workers.

Second, the United States had to make certain that it would negotiate an instrument whereby the terms for the entry of our business persons and professionals into Mexico would be fully transparent and guaranteed in what is otherwise an immigration regime which allows for an extraordinary amount of discretion--even arbitrariness.

The U.S. success on these and other matters was complete due in no small part to a superbly qualified and sensitive Mexican team which usually understood how little flexibility there was in our position. As a result, the Mexican side accepted that they

will be treated differently than the Canadians for a period which in some instances can last no longer than the transitional period of the entire agreement (in the case of the entry of Mexican professionals) while in others it can be of indefinite duration (such as in the case of maintaining visa requirements).⁴

As you can see, in both cases the United States insisted upon, and was able to obtain, a deliberate course for resolving these differences in treatment. In addition to the symbolism of these provisions in the United States, such a course will also allow Mexico an opportunity to demonstrate that it is capable of meeting its obligations under this part of the overall NAFTA agreement before further progress can be made.

Finally, the NAFTA allows no loopholes through which Mexican workers other than those business persons and professionals explicitly allowed temporary entry under the terms of the agreement might enter the United States.

Before I move on to the next topic, let me address briefly an issue that seems to appear in the NAFTA discussion with some regularity: the agreement's sovereignty-impinging effects.

This vein of the larger discussion on the NAFTA concerns me a great deal because it pretends that we live in a world in which nation-states somehow still enjoy absolute license in their

⁴In the former case, the agreement requires the United States to engage in discussions about removing the restrictions as early as three years after the NAFTA enters into force. In the latter, the agreement simply requires regular consultations with the Mexicans about the possible removal of the visa requirement.

international (or, for that matter, increasingly, in their domestic and sub-national⁵) conduct. This doubly-anachronistic image is so much at variance with reality that one must wonder about the nation-state concept's very value. Activist international players give up part of their sovereignty every time they sign and ratify a treaty or agreement, a convention, a memorandum of understanding; and sometimes, they surrender sovereign prerogatives without even doing so explicitly--in the regular course of the development of public international law which defines acceptable international conduct. And even when a state's international involvement is passive, that state surrenders part of its sovereign license every time it considers the international implications of a course of action it is contemplating and adjusts or adapts such action because of concerns about the reaction of the international community or simply its image and standing in the global community. My point is (and I am making it in its extreme form in order to punctuate it) that even for countries with low levels of participation in the affairs of the community of nations, the sovereignty-constraining effects of such participation are invariably significant.

⁵I mean here to note that, increasingly, many national governments find it more and more difficult to exercise such license even in their domestic affairs--simply because they cannot realistically expect their constituent (regional and sub-regional) units to comply. Canada's and Belgium's recent examples in this regard are but the tip of the iceberg in this little-understood realm of fast-evolving sub-national politics.

Let me now be direct and unambiguous on the specific issue before this Subcommittee. The terms of this NAFTA chapter will restrain our ability to restrict further those parts of our immigration laws which apply to the entry of business persons as defined in the agreement. In other words, when Congress approves the NAFTA, it will in effect be "binding" the very limited provisions of our immigration laws affected by the agreement. That means that we will in effect be committing to the other NAFTA parties that we will not at some future time unilaterally withdraw the entry commitments we have made to them in this agreement. What this means in real terms, however, is not that we will not do so forever. Rather, that such changes would need to be negotiated with Canada and Mexico and that if we choose to change these terms unilaterally nonetheless, we would be subject to some retaliatory action in any part of the same agreement.

B. LIKELY EFFECTS OF THE NAFTA ON ILLEGAL IMMIGRATION PRESSURES

One of the many important questions before this Subcommittee is whether the NAFTA is likely to have a significant enough positive economic impact on Mexico (in terms of creating jobs, raising the Mexican standard of living, and increasing Mexican national income) so as to decrease pressures for illegal Mexican migration measurably.

As you are well aware this is a difficult question. Nonetheless, let me share with you how I went about getting an analytical handle on this question which allowed me to draw up a

scenario under which the combined effect of recent changes in our immigration laws, together with the anticipated economic impact of a NAFTA on Mexico, could be reasonably expected to gradually reduce pressures for illegal immigration to the United States.

Let me start with my conclusions first. Claims that the NAFTA is the panacea in our struggle to contain illegal immigration is both overstated and, ultimately, terribly irresponsible--in that it creates unrealistic expectations about and offers a yardstick by which to judge NAFTA's "failure." If the claim that the NAFTA will solve our illegal immigration problems is irresponsible, the claim that it will increase illegal immigration is a gross distortion of the overwhelmingly prevailing view in this field.

In my view, the most appropriate way of thinking about the NAFTA's relationship to illegal (and overall) immigration to the United States from Mexico is that in the short-to-medium term, NAFTA is likely to augment pressures for emigration (something that is not, however, ipso facto tantamount to actual illegal entries into the United States). After that initial period, and if the NAFTA is even less "successful" than either its supporters or its detractors think it will be, pressures for overall emigration will diminish. Attorney General Janet Reno has got it just about right. In an op ed for the L.A. Times last week, Ms. Reno argued that

"[o]ur best chance to reduce illegal immigration is sustained, robust Mexican economic growth. That is why passage of the NAFTA will help me protect our borders....If [the] NAFTA passes, my job guarding the border will be

easier. If [the] NAFTA fails, my job stopping the flow of illegal immigrants will become even more difficult."

Analytically, the crux of this issue is the relationship of economic development to migration. Some argue that the overall economic and wage gap between the U.S. and Mexico is so huge that, even with the NAFTA, no measurable impact on reducing emigration pressures is likely within the short-to-medium term.

This position appears to find support in the 1990 Final Report of the Commission for the Study of International Migration and Cooperative Economic Development, a body created by the 1986 Immigration Reform and Control Act (IRCA). The Commission reported what it indirectly felt was the consensus view of the research community, namely, that in the short-to-medium term, development is likely to exacerbate emigration pressures. In the Commission's words,

"[t]he transformations intrinsic to the development process are at first destabilizing. They initially promote rather than impede migration. Better communications and transportation and other improvements in the quality of life of people working hard to make a living raise expectations and enhance their ability to migrate (1970:34; emphasis added)."

If I might be allowed to re-interpret the Commission's reasoning, as nationals from less developed countries abandon their villages (thus breaking the traditional family and social attachments that keep people in a place) and enter the internal migration streams of those seeking industrial work, and in the absence of adequate employment opportunities at destinations inside the country, (unauthorized) international migration often becomes a natural default option.

Interestingly, the "evidence" on which the Commission based this often-cited "conclusion" is so indirect and non-truly-comparable with the Mexican situation as to substantially affect the relevance of the observation for our purposes.

The Commission looked at two situations. First, the Commission looked at Puerto Rico in the 1950s and 1960s. This example is of limited comparative value because Puerto Ricans are U.S. citizens and can migrate as they please. Furthermore, and notwithstanding tax incentives for business investments in Puerto Rico, it lacked at least one key attraction of the Mexican situation: an increasingly expanding class of local consumers.

Second, the Commission looked at Western Europe in the 1960s and 1970s, i.e., in the context of the European Economic Community (EEC). But unlike with the NAFTA, the EEC explicitly included a freedom of movement component in the 1957 Treaty of Rome and had aims which are both philosophically and in terms of the agreement's basic architecture very much at variance with the NAFTA. Furthermore, investment flows to the less-developed Southern part of the EEC were never really one of the agreement's key priorities either in spirit or substance. Instead, the EEC favored the more direct approach of vast income transfer programs for agricultural subsidies and for the further development of physical and social infrastructure throughout the less developed regions of Community.

Hence, although I am in fundamental agreement with the thrust of the Commission's speculation, I really like to stress

that it is just that--informed speculation. In fact, it is fair to say that we do not really know the threshold at which migration pressures which can spill over to a neighboring country either become aggravated or abate as a result of development.

The point of this digression is that there is no simple response to the concern about how the NAFTA might affect illegal immigration. In fact, we can safely assume that even under the most favorable NAFTA scenario (from Mexico's perspective) it will take Mexico considerable time to bring its un- and under-employment problems under control. During that time, it is indeed likely that some of the Mexicans who will by then have entered the Mexican internal migration stream will seek to enter the U.S. illegally and obtain unauthorized employment here.

What is even much more clear, however, is that absent a successful conclusion of the NAFTA, the transitional period (i.e., the period during which Mexico will continue to be in the grasp of development forces which create internal, and aggravate external, migration pressures will presumably continue to mount) will be drawn out tremendously--with more consequential illegal immigration repercussions for the United States.

There is another set of factors, however, which have not been part of the overall calculus in this analysis, perhaps because they are possibly even more complex than those briefly discussed above: namely, the recent reforms of U.S. immigration legislation. The combined effect of the enhanced access to the United States by Mexican nationals offered by the legalization

programs of the 1986 Immigration Reform and Control Act (IRCA) and the key "family unity" provisions of the 1990 Immigration Act will be to increase substantially "main gate" (that is, legal) immigration opportunities for Mexicans. Such increases mean that Mexican immigrant families will be able to reunify much more readily in the United States.

It is well known that illegal immigrants travel along pathways established and being kept active by immigrant networks --and that a large share of illegal immigration is made up of aliens who reunify with their families de facto, (i.e., outside of the immigration laws). It is thus reasonable to assume that by setting the stage for increased access in legal family-based immigration from Mexico throughout the decade (through the unlimited "immediate family" reunification provisions of the INA), these two seminal pieces of recent U.S. immigration legislation should in turn reduce interest in illegal immigration by that very group of Mexicans for whom illegal immigration and employment in the United States has become part of its survival strategy.

Of course, it goes without saying that the "window of opportunity" opened by these additional immigration opportunities is only likely to reduce immigration pressure from the specific communities in Mexico which have by now historical immigration relationships with U.S. Communities--they will not eliminate it. And it is equally reasonable to assume that, unless attended to, the overall reduction might be both small and temporary. Only a

successful NAFTA, with its attendant job growth in strategically situated areas, can gradually attenuate the creation and maturation of new immigrant networks from areas outside of those already in existence.⁶ Evidence from recent INS border apprehension data suggests that such new source areas are indeed beginning to develop.

Clearly, if location of new investment with an eye to reducing some of the northward internal migration is to be systematically explored it must receive the priority attention of Mexican government development agencies and be able to count on the cooperation of U.S. investors. If such cooperation is to become one of the NAFTA's hallmarks, it can develop and nurture a habit of cooperation in other issues--including controlling

⁶Remarkably, the growing business of "projecting" the agreement's immigration effects has failed to focus on this rather fundamental point. Specifically, the one Mexican agricultural activity which will be most adversely affected under the NAFTA is grain, and particularly maize, production. This sector's restructuring is likely to release about 1.5 million Mexicans into the internal migration-stream over the course of the agreement's transitional period (15 years in this instance). What projections find difficult to take into account (because of the issue's complexity) is (a) that the NAFTA-induced changes will be taking place simultaneously with the radical changes in the land ownership system (the ejido reforms) introduced by Mexico last year, and (b) that networks tend to be community-specific, that is, that for the purposes both of access to the pathways and ethnic support systems, a Mexican is not just a Mexican--rather, it is someone from a specific area with direct links to specific transnational households. If indeed the functioning of networks is a nearly "independent-variable" in international migration, as the literature suggests, Mexicans released from maize production due to NAFTA--who come predominantly from the southern part of the country (where virtually all maize production takes place) and who are predominantly of Indian ancestry--will not have the same pronounced advantages for entry into and survival in the United States as other unauthorized Mexicans now do.

better both the organized smuggling of illegal immigrants from Mexico and of non-Mexican nationals who have been using Mexico as a launching pad for illegal crossings into the United States.

Of course, during this transition period, and until the NAFTA produces enough additional economic activity in Mexico to make the uncertain trek to the United States less attractive to Mexican nationals, we will have to make certain that we improve our border controls and that we enforce more stringently our labor market control laws--actions that are incumbent upon us with or without the NAFTA.

As Robert Samuelson argued in an April 27, 1991, op-ed piece in the Washington Post,

...[e]conomic growth won't erase our conflicts with Mexico, but deepening poverty would make them worse. A free trade agreement is no panacea. It's a gamble--but one we can't afford not to take (emphasis added).

C. MANAGING THE NORTH AMERICAN RELATIONSHIP

Unauthorized migration is a challenge that confronts all advanced industrial democracies. Managing it--let alone controlling it--cannot succeed unless substantial gains are made in parallel efforts to lessen domestic social and political conflict in immigrant-sending societies and reduce the more egregious instances of the economics of scarcity and politics and economics of exclusion which are at the heart of most unauthorized migration flows. Absent such improvements, even draconian control measures would make efforts to eradicate unauthorized immigration only partially successful.

The typical focus of U.S. discussions about border management and illegal immigration controls is almost exclusively domestic and unilateral. Increasingly, however, it is becoming obvious that such actions are likely to fall far short of the mark and must thus be augmented by international initiatives.

It is time to move beyond rhetoric in these efforts and adopt more imaginative and comprehensive approaches to controlling illegal immigration. Among the avenues which can be explored systematically in this regard are asking our Mexican and Canadian partners to place cooperation in deterring the passage and smuggling of aliens squarely on the bi- and trilateral agenda.

In addition to the NAFTA--which is indispensable to securing any Mexican cooperation--there are several ongoing sets of relationships which offer plausible vehicles for this endeavor. The State and Justice Departments have been engaged in a dialogue with Mexico on a large number of issues (including many of those of concern to this Subcommittee) as part of the U.S.-Mexico binational relationship (BNC) which is now more than ten years old. And these same two Departments, at times with representation from the Department of Labor, are routinely involved in similar formal and less formal discussions with Canada on a number of immigration-related issues--including a conversation which is now in its advanced stages regarding the designation of each other as "safe" countries for the purposes of assigning each other responsibility for the adjudication of

asylum claims.

This is very much a priority matter for Canada--which suggests that reaching a higher level of cooperation with Canada in what is already a highly cooperative relationship might be possible. While Mexico might be far less inclined to (or capable of) entering into and discharging effectively similar cooperative obligations (there are ongoing trilateral discussions fashioned after the U.S./Canada one which I have just described but these are truly in an embryonic stage), a strongly evolving Department of Labor relationship with Mexico's Ministry of Labor provide at least additional vehicles for such discussions.⁷ At the danger of being pedantic, however, all cooperation with Mexico on these issues hinges directly on the fate of the NAFTA.

D. IMPLEMENTING THE NAFTA

It seems to me that there are some things that this Subcommittee might do to enhance the chances that the NAFTA and the U.S.-Mexico relationship which it will establish, addresses some of our illegal immigration concerns. I have one comment and

⁷It is important to understand in this regard, however, that these are sovereign nations with which we are striving to develop ever closer relationships. These relationships can only be successful in the long term if each party to the discussion is treated as an equal with respect to its sovereign prerogatives. Simply put, this means that we must keep in mind that common approaches in any one policy area are likely to be reached only if such approaches are demonstrably to the benefit of all partners--or concessions are made to "compensate" for benefit imbalances. No negotiating course can sour relations among old or new friends faster than trying to impose unilaterally one's views on the other in areas of extreme sensitivity.

three specific proposals:

My comment is that we should think of border management far more broadly than border enforcement. At such, it must be part of a more comprehensive effort at controlling unauthorized access to the United States--from better visa regimes and better cooperation among U.S. enforcement agencies (and their activities in the United States and abroad), to better coordination and cooperation with our friends and neighbors.

"Operation Blockade" is a perfect case to demonstrate this last point. One of the clear lessons of that initiative is that a saturation enforcement effort can clearly control illegal entries. We have hear nothing yet about the fiscal commitments it requires nor about whether those determined to cross may choose to do so elsewhere--or simply wait for us to complete our "experiment" and cross then. Most importantly, however, we do not know yet the operation's costs in terms of the ability of what are truly binational communities to continue to live together and are not fully aware--although we have many indications--of the implications of such actions for the bilateral relationship with Mexico (which may very well be publicly containing its extreme consternation because of the impending vote on the NAFTA). The lesson is clear: experimentation in border management is important if we are to develop better controls; however, consulting with our neighbors in developing and executing such initiatives are equally of crucial importance.

My specific points with regard to the implementing legislation are as follows. I recommend that you insert language directing the Administration not to remove the numerical limitations on the entry of Mexican professionals under the NAFTA without prior consultations with (a) key members of the immigration research community (perhaps in the form of a formal consultation with an "advisory" group), (b) with the appropriate representatives of organized labor, and (c) with the appropriate Congressional Committees. A similar statement might also (or alternatively) appear on the Bill Report. It will, however, carry less weight.

My second proposal refers to illegal immigration. Here, the Bill Report may be the only opening available to you. You may direct the Administration or, more specifically, the Secretary of State, the Attorney General, and the Secretary of Labor and their representatives to use all available vehicles--including but not limited to the Binational Commission process and other bilateral or trilateral vehicles--to elicit the Mexican Government's cooperation in our effort to control illegal immigration. If you wish to be more forceful--a requirement which may, however, be resisted by the Administration--you might also require that the Administration be prepared to report to the Congress periodically on progress along these lines.

My third proposal has already appeared in the underlined portion of footnote #1 and properly belongs on the Bill Report.

E. CONCLUSION

Responding responsibly to the challenge of transnational migration is an immense challenge that requires the thoughtful and sustained attention of all members of the world community. Being successful in meeting the challenge requires that we understand properly both the structural causes of migration and the personal ambitions and aspirations of those who move.

Whether the issue is one of the most appropriate border or labor market controls, creating or expanding channels of regular immigration access, safeguarding the human and labor market rights of all alien workers (regardless of immigration status), affirming protections for bona fide refugees, creating new temporary humanitarian protection standards (with the state's concomitant right to repatriate the beneficiaries of a grant once the "emergency" abates), or working cooperatively to achieve measurable progress in the development of the "South," the only viable long-term solution lies in international cooperation.

Whether as a first step toward such cooperation or entirely independently of broader initiatives, the NAFTA is an effort worth pursuing. As the Commission to which I referred earlier pointed out, many less developed countries face a "stark dilemma" between "exporting goods and services to create jobs at home and exporting people (1990:xvi)." The Commission's central thesis, and the basis for its many recommendations, was for the less-developed countries to pursue aggressively more job-creating economic growth--without further degrading the physical

environment--as the only long-term solution to this dilemma.

Mr. Chairman, it seems to me that it behooves the United States to facilitate that process. Doing so will require a multifaceted long-term strategy that includes offering the less developed countries assistance with the further development of their human resources, granting them more open trade arrangements, assisting them with small-business creation, and advising them on how best to proceed with the pursuit of policies that stimulate and expedite economic growth (Commission, 1990:33-41 and 49-64). Although not explicitly stating it, the Commission's obvious judgment was that the pursuit of such policies should be motivated as much by altruism and philanthropy as self-interest: absent sustained development, and given the force of demographic momentum (that leads to the absolute size of each of several subsequent generations to be greater than the previous one despite declines in fertility⁸), the less developed societies in the Hemisphere cannot cope with their rates of population growth. Nothing short of the social and political stability of the region may be at stake.

Mr. Chairman, this concludes my prepared statement. I would be pleased to answer any questions that you or members of the Subcommittee may have.

⁸ For instance, Mexico's total fertility rate has been nearly halved since 1970. The long-term inertia of population trends, however, guarantees that Mexico's population will continue to grow well after its rate of population growth reaches below-replacement fertility.

Mr. MAZZOLI. Mr. Weintraub.

STATEMENT OF SIDNEY WEINTRAUB, DIRECTOR, SIMON CHAIR, CENTER FOR STRATEGIC AND INTERNATIONAL STUDIES

Mr. WEINTRAUB. Mr. Chairman, thank you for having me here. Let me make a few preliminary comments.

You have me here as a fellow of the Center for Strategic and International Studies. That is accurate. I am normally a professor at the University of Texas in Austin, and I am familiar with the border. I know the Texas part of the border quite well.

Let me correct a point that Demetrios made. I was the Economic Adviser to the Commission. I was not the Research Director. The Research Director was a man named Sergis Diaz-Berquets who was here in this room earlier. He may still be here. I am an economist, and my background is trade and finance.

Mr. MAZZOLI. Very good.

Mr. WEINTRAUB. The Commission spent 3 years of the study. We published six volumes of articles looking at push, pull, and other factors.

Demetrios was just plain wrong about the basis on which we concluded that economic development was in itself, a stimulus to emigrate.

We looked at several hundred years of experience. And the very first study in the first volume of those six volumes I mentioned is by a sociologist who looked at that experience for us. He was not the only one to do so. In other words, our studies on the development-migration relationship were far more extensive than Demetrios says.

Having given you all that introduction, let me make eight quick points.

I don't know of a single serious analyst—this is the first point—who has reached any conclusion other than that which says that in order to curtail the pressure for migration out of Mexico, economic development is necessary.

Since I think everybody agrees with that point, there is not much need to dwell on it.

Let me get into the short term. I notice in my paper that I define "short term" roughly as the next 10 years. And a few sentences later I said the next 10 to 15 years. What I had in mind was the transition period in NAFTA. The transition period in NAFTA is mostly 10 years. That is what I mean by the short term.

The opponents of NAFTA argue that emigration from Mexico will accelerate, in the short term from the economic development process plus the opening of the agricultural sector to imports. The argument is that there will be a great big lump of emigration over that period because of NAFTA.

My own conclusion is very different. I think, if anything, that NAFTA will have a tendency to slow down the emigration pressure. I will give you my reasons in a few moments.

Having said that, I don't want to claim too much. I don't think any immediate increase in incomes in Mexico will lead to an immediate deceleration of immigration. I don't want to overstate the

point. I am merely saying that the hump is going to be there with or without NAFTA, and I expect it to be less with NAFTA.

A complementary point I would like to make is that, without economic development, the short term is forever. And you ought to keep that in mind. You don't want that short term forever.

Third, let me make a few basic points about the nature of the Mexican economy and agriculture. The rural population of Mexico is still about 30 percent of the total population. Agriculture contributes only about 8 to 9 percent of Mexico's gross domestic product. In other words, rural people are not producing up to the production of people in other places. We had that experience in the United States well into this century.

Under these conditions, the rural population inexorably is going to move out of the countryside. They may move into urban areas within the countryside or other urban areas elsewhere. I hope they can be kept out of Mexico City. Indeed, the Mexicans are trying to do that. But there is no way to keep them down on the farm when they are unproductive. I think that is a point that ought to be taken into account. The Europeans couldn't do it. We couldn't do it. The Mexicans can't do it.

Four, therefore, what really determines whether they stay in Mexico or come across the border into the United States is mostly determined by the opportunities for jobs and training and education and opportunity for their children which exist in the places to which they move.

If those opportunities exist in Mexican cities, they will stay in Mexico. Most people don't want to cross the border illegally. If those opportunities don't exist at home, they will emigrate.

The question, then, to ask about NAFTA is: Will NAFTA increase those opportunities at home? Again, I don't want to overstate these things. I think I was perhaps the first person in the United States to write extensively about the idea of economic integration between the two countries. What really counts is not NAFTA as such. What counts is the Mexican internal policy. If NAFTA adds to Mexican economic growth then it will have a rather important effect. That is my fourth point.

Another argument made by the opponents of NAFTA—this is my fifth point—is that the opening of the Mexican grain market, the corn market, and the change in the Gido system, is what is impelling the human flow out of Mexico. I think that is a bum rap. The Mexicans have been studying this issue now for a number of years.

The way the agricultural subsidy system now works is costly and not working very well. The people in the countryside are still very poor. What the Mexicans have decided instead, as you heard earlier, is to make direct payments to the rural poor. What Mexico is doing, therefore, is deliberately taking steps to slow the process of exodus from the farms. They are not going to stop it. The exodus is inevitable, it can be slowed down.

That is one of the reasons why I think that with NAFTA there will be less of an immigration hump than without NAFTA. The Mexicans are taking steps to slow that drain out of the countryside; and, two, economic growth in Mexico can provide opportunities in the cities.

My sixth point. And I will make it very briefly. It is not the basis of my argument, but I would like to make a moral argument as well. I think, Mr. Chairman, that you and others here know that the poorest people in Mexico live in the countryside. The children are not getting a decent education; diets are inadequate; they are not getting schooling; they don't get adequate health care. Anybody who suggests that those people should stay right where they are is really taking an immoral position. And I think that ought to be factored into the equation. It is not the basis of my argument, but I thought I might add a little bit of morality to it as well.

My seventh point, very quickly, is that the argument that people move to the border to get jobs in the maquiladora and from there move over the border is a bit misguided. That may or may not have taken place in the past. But the big population movement to the maquiladora took place because, one, the export trade treatment from the maquiladora to the United States was better than the trade treatment of nonmaquila exports; and, two, because of the better communications and transportation network at the border in Mexico. However, with NAFTA, the maquiladora system will end. Under NAFTA, the Mexican transportation and communication system is being improved. Indeed, those who cite the maquiladora as a cause of emigration from Mexico are fighting the last war.

And, finally, let me summarize my points.

The idea that rejecting NAFTA, denying Mexico that little extra fillip of economic opportunity, can have any positive effect on migration out of Mexico or reduce emigration pressure is asking for behavior with respect to migration that never has been and never can be.

In other words, I must confess I have a difficult time understanding the basic argument of the opponents of NAFTA when dealing with migration issues.

Thank you, sir.

Mr. MAZZOLI. Thank you very much, Professor.

[The prepared statement of Mr. Weintraub follows:]

Because the two countries share a porous border, the only effective way to reduce undocumented immigration from Mexico to the United States is to provide greater economic opportunity at home for Mexicans. If the North American Free Trade Agreement contributes to economic growth in Mexico — as practically all analyses conclude will be the case — it will also contribute to reducing the pressure to migrate to the United States.

History is replete with instances of economic development transforming countries from which people felt forced to leave into countries to which people want to come. The mass immigration from Western Europe to the United States in the 19th and early 20th centuries has long since ceased. The shift from emigration to immigration countries has happened in this generation to Italy, Spain, and Greece. The entry of Spain and Greece into the European Community did not lead to a mass exodus into the richer EC countries. Quite the reverse, it led to a desire of people from poorer countries to come to Spain and Greece.

I challenge anybody to provide any effective method to curtail unwanted immigration from Mexico other than economic growth there. A wall along the vulnerable parts of the 2,000-mile border would be penetrable even as it changed a friendly into a hostile environment. Militarizing the border would lead to

incidents similar to those that characterized the Berlin Wall. Soldiers with guns would use them against people seeking nothing more than opportunity. Closing the border to commerce would slow economic activities in both countries. Last year there were more than 250 million legal crossings across the border from Mexico into the United States. There is no feasible way to screen out the illegal crossings from these hundreds of millions of legal entries and still permit expeditious movement of people for legitimate purposes.

The Short Term

The only arguable issue about the effect of NAFTA on undocumented immigration from Mexico is what the short-term, roughly the next ten years, might bring. The opponents of NAFTA assert that it will accelerate migration from rural areas to cities and then from there across the border into the United States. They also assert that NAFTA will stimulate economic activity at the border between the two countries and this in turn will lead many Mexicans to cross illegally into the United States.

I am convinced that both these conclusions are wrong. But even if they were correct, there is still no getting away from the simple verity that the only feasible way to reduce illegal immigration from Mexico into the United States is from economic development there. Failing this, we will have a series of short terms that will never end — the short term under the transition period of NAFTA, then the short-term that will begin about 10 to 15 years out, and then the short term after that, and after that. If we really are serious about reducing illegal immigration from Mexico, there is no avoiding the imperative for Mexico's economic development.

Some facts about the internal situation in Mexico can inform this discussion. Perhaps the most crucial fact is that roughly 30 percent of Mexico's

population still lives in rural areas while agriculture contributes less than 10 percent of Mexico's gross domestic product. The situation is comparable to what existed in the United States well into this century. Under these circumstances, it is inevitable that many Mexicans will leave the farms, where they are both unproductive and grindingly poor, and come to the cities. This will happen with NAFTA or without it. Mexico needs a transformation of its agricultural structure and urban opportunities, with NAFTA or without it.

We did not keep 'em down on the farms in the United States. Neither can Mexico. Do not confuse this underlying reality with the trade provisions of NAFTA.

What NAFTA can help provide is more opportunity in the cities as Mexico continues its transformation from a rural to an urban society. If this is not provided, then many rural to urban migrants will feel compelled to keep moving across the border where economic opportunities can be found. The growth generated by NAFTA will also permit the Mexican authorities to provide a cushion to people now living in rural areas in order to avoid a veritable flood of people into the cities. Monetary transfers to rural areas are part and parcel of the agricultural program that has been adopted in Mexico.

NAFTA, in other words, can provide the means to slow down the rural to urban migration that is taking place right now as we hold this hearing. And by increasing job opportunities in urban Mexico, NAFTA can provide the means for the internal migrants to stay at home. NAFTA, in other words, can provide some of the impetus to reduce the very illegal immigration into the United States that so many opponents of NAFTA fear.

The charge of the critics that migration from rural areas in Mexico will flow from opening the Mexican market to corn and other grain imports from the United States is a bum rap. The market in Mexico is being opened in any event

because the price of keeping it closed is too high. What NAFTA does is provide a timetable for what the Mexican authorities feel constrained to do in any event.

I repeat: The rural to urban migration is already under way and will inevitably continue. It will take resources to slow it down, and these are contemplated. And it will take economic opportunity in urban areas to reduce the incentive to cross illegally into the United States, and NAFTA can provide some of this as well.

The previous arguments are of a practical nature. I would like to mention a moral argument as well, although it is not the heart of the case I am making. The position that NAFTA should be rejected so that Mexican peasants will stay put is a suggestion that rural misery should continue — that children continue to do without school, families without health care, and millions of Mexicans with inadequate diets, conditions that now exist. It is an argument that unproductive people should remain unproductive and not be offered the opportunity to provide a more decent life for their families. Because this is not what principled opponents of NAFTA have in mind, I would urge them to consider the implications of their position.

The Maquiladora

The contention that NAFTA will lead to Mexican migration to the border is also misguided. The voluminous migration to the border took place during the past 25 years because there were jobs there. The products of border industries, the maquiladora, had ready access to the U.S. market, much more so than goods from Mexico's interior. Mexico's deficient communications and transportation facilities also impeded exports from distant locations. NAFTA is designed to change this. Access to the United States will be equal for production

from all locations in Mexico. Mexico is already upgrading its transportation and communications facilities in anticipation of NAFTA.

If anything, NAFTA should slow migration to the border. To the extent that this migration in the past led to illegal border crossing — for which there is no solid evidence — NAFTA should curtail this source of immigration.

The Imperative of Providing Economic Opportunity at Home

Economic growth is destabilizing. At the start of the growth process, it is not surprising that migration may increase. This is taking place in Mexico. It took place earlier in Europe where people left farms and moved to cities and many kept right on moving across the Atlantic to the United States. Horizons broadened with greater information. It would be unwise to expect short-term economic growth to lead to an immediate reduction in migration.

The European migration to the United States slowed and then ceased for all practical purposes long before incomes were equalized in both locations. The slowdown began when individuals felt they had a future at home, when they concluded that they could provide economic and social opportunities for their children in their own country. This will happen in Mexico as well. This, in my view, is the critical issue. As incomes rise slightly in Mexico, this will have little impact on the immediate pressure for emigration. As income rises year after year and is distributed more equitably than was the case in the past, the confidence this can provide will have its effect in slowing emigration.

Mexicans prefer to stay home. We know this from surveys both in Mexico and here. We know it in our guts because most of us also prefer to stay home, where we feel part of the society. What Mexicans seek is an opportunity to live decent lives in their own country. NAFTA alone will not provide this, but

NAFTA can contribute to Mexican growth. Do the opponents of NAFTA have any other suggestions? I have not heard any other than the impractical.

I have already stated that there are many examples of countries from which emigration was virtually eliminated as economic opportunities at home were created. This would happen in Mexico as well. By contrast, the only cases in which illegal migration across borders was curtailed when economic opportunity was denied was when prison states were created. We cannot expect Mexico to militarize its own border to prevent its nationals from leaving. And we should not want to militarize our side of the border either.

NAFTA provides an opportunity to curtail pressure for emigration out of Mexico in a cooperative manner. A rejection of NAFTA, to the extent that it reduced economic opportunity in Mexico, would, if anything, increase the pressure to migrate to the United States. To expect otherwise — to expect the denial of economic opportunity to encourage Mexicans to stay at home — is to look for migration behavior that has never been and can never be.

Mr. MAZZOLI. You say that you are on the faculty at UT?

Mr. WEINTRAUB. Yes, I am.

Mr. Ambassador, you say that enforcement is not the answer, but I consider it to be one answer. It is one of the several elements here which would include economic development in Mexico and all kinds of cooperation.

We have somewhat forgotten the whole question of enforcement and said, it is either NAFTA and what it might offer, short term, long term, and however we define that, or we have this problem that is just not going to go away.

So I think we certainly realize that enforcement is not the only answer. It hasn't worked entirely until now. I would hesitate to consider a scenario in the future that doesn't at least have some kind of enforcement.

When you reach this new level of cooperation, this new future between these two nations, are we going to be able to enforce our immigration laws at the border and in the interior of the country when we have this new degree of relationship?

Mr. ASENCIO. I will tell you that during the period when I was active in official circles, we discussed this often. In fact, I believe that it was during my tenure as Assistant Secretary that we first set up an immigration subcommittee of the so-called Consultative Mechanism between Mexico and the United States. We discussed this at some length, and I recall specifically, with elements of the Salinas administration, there was much talk about specifically targeting the Coyotes and the facilitators on the border and particularly of the Mexican Government taking on the role of protector of the human rights of migrants in general.

I have just come from Mexico. I talked to some officials there, and I don't see any difference in that rhetoric. I would think that we, as a government, should discuss that with them and develop mutual programs that would, in fact, target the monsters that take advantage of humanity in these unfortunate situations. And I would think that that would go a long way toward making a more effective law enforcement.

Mr. MAZZOLI. You would see no pressure or no restraint or circumspection on our part about what we are doing in a new setting after passage or adoption of this NAFTA.

And if you don't, I am glad to hear you say that, because I think enforcement of one sort or another is going to have to be a part of the future for a long time to come. Because just like absent NAFTA or with it, there is going to be some illegal entry; with NAFTA, there is still going to be illegal entry.

Mr. ASENCIO. Let's take this by stages. By enforcement and cooperation, you mean specifically the Mexican Government stopping their own people from crossing the border—

Mr. MAZZOLI. I am talking about our enforcement of our own laws at the border, when does that become unseemly?

Mr. ASENCIO. I don't share the concern that because of the relationship, we would—whatever you want to call it—pussyfoot about the situation.

And from the Mexican Government standpoint, it would seem to me that they would also be very chary of asking us to do something

that we wouldn't ordinarily do, because they were concerned that we might ask them to reciprocate.

Mr. MAZZOLI. The conspiratorial theory around here is the fact that it is not in NAFTA, in the first place, any kind of commitment on the part of the Government of Mexico to do something about illegal activities.

I am not talking about the individuals. I am talking about the syndicates and the crime rings that bring people into this country. Its absence from this agreement is a reflection of just exactly that. And we can't talk about certain subjects any more than we might have talked about forever.

Mr. ASENCIO. I don't think so. And let me explain. I think there have been allusions to this approach by other members of the panel.

The Mexicans did want to talk about some sort of free movement of labor regime. They were very intent on working out the immigration problems. There was concern, people expressed to them—in fact, I expressed concern to very high levels in the Mexican Government that if they did that, it would assure that the Congress would react in a very adverse way in considering NAFTA.

As someone mentioned, when you open something up for negotiation, it is not only what you want, it is what the other side wants. As I understand the U.S. strategy, it was considered undesirable to raise the question of enforcement because then it would open up the question of how you would, in fact, develop a regime for the normal transiting of labor between two economies.

Mr. MAZZOLI. I appreciate that.

Dr. Papademetriou, do you generally agree with what Mr. Weintraub has said or what Mr. Asencio has said?

Dr. PAPADEMETRIOU. I take no issue whatsoever as to whether there will be some additional pressure for illegal immigration. I do not want to equate—and I like the way that you are phrasing it—the additional pressures for immigration with illegal immigration in the United States. That is the first point.

The other point I was making is a far narrower point. The point was that there is a *sui generis* character to all of these agreements. And the character of each agreement is shaped very, very much by what you are trying to accomplish in it. Hence comparisons with previous historical situation or for that matter the situation in the European Community or the situation with Puerto Rico, as far as I am concerned, are totally without much basis.

Now, when we try to enter into new arrangements, new areas, we always try to look for historical evidence, and we inevitably allow ourselves to be influenced by what we have seen before. But we never take the time to look at what may be idiosyncratic about these other agreements.

That was the narrow point that I was trying to make.

Mr. MAZZOLI. Pretty good.

I think that we pretty well covered—one thing, I was curious—Dr. Weintraub, I think you used the term "economic integration" in your eight points.

Is that how you see NAFTA, the ultimate in economic integration?

Mr. WEINTRAUB. Yes, I do.

Mr. MAZZOLI. When you have economic integration, you don't really have borders?

Mr. WEINTRAUB. No; I don't think that is true at all. We don't have the same—I guess my definition of economic integration is less comprehensive than that.

What I am saying is that many economic activities can then take place as if there were no borders. Obviously that is not true in the political field. It is not going to be true in a good many other areas. It is not going to be true in enforcing our laws, environmental laws, or immigration laws or criminal laws, or almost any kind of laws that you may cite.

What I think economic integration means is that we can penetrate each other's regulatory processes more thoroughly so that none of the three countries can adopt regulatory measures which deliberately act as trade barriers. That is really all.

Mr. MAZZOLI. There is a panelist who is going to say that State licensure laws would be superseded by NAFTA so that, in fact, if someone is licensed or able to practice in one country, that person will be able to pursue their trade or profession in the other country.

Mr. WEINTRAUB. I don't think that is accurate, sir, even in the European Community, which really is more integrated than NAFTA contemplates and the provincial governments in Canada, the State governments in the United States, will not lose their sovereignty.

Mr. MAZZOLI. Good. I am glad to hear that.

Ladies and gentlemen, thank you very much. I appreciate it.

And we will go to the next panel. This is composed of Mr. Jorge Bustamante, president of El Colegio de la Frontera Norte; Mr. Harris Miller, Washington representative of the American Council on International Personnel; Mr. John Howley, assistant director of public policy for the Service Employees International Union; and Mr. Raul Hinojosa-Ojeda, assistant professor of planning, Graduate School of Architecture and Urban Planning, University of California, Los Angeles.

Mr. Bustamante.

STATEMENT OF JORGE A. BUSTAMANTE, PRESIDENT, EL COLEGIO DE LA FRONTERA NORTE

Mr. BUSTAMANTE. Thank you, Mr. Chairman.

Since I am the only Mexican citizen that you listed in the program, I would like to start by making one clarification at the outset, which is that we in Mexico do not see undocumented immigration as in the best interest of Mexico. We do not like undocumented immigration. That is something that is a fact of life of the vicinity between the two countries that we would like to see in a regularized, in a legal manner, in a cooperative manner, taking place.

The ideal scenario that we have in Mexico in regard to labor migration with the United States is one that results from a bilateral agreement on labor migration reached between the two countries after negotiations that should be comprehensive.

And certainly the first challenge would be to have a common definition about the phenomenon, which we don't have. In the United States, the predominant definition is that illegal aliens represent

a question of criminal behavior and illegal aliens produce a negative impact in the United States. In Mexico, we do not believe that is the case.

In Mexico, we believe that the migratory labor phenomenon is the result of an international labor market in which the demand side from the United States is as real as the supply and that the migrants—Mexican migrants represent part of the best of Mexico. The most determined—some of the most determined, some of the most aggressive people do not conform with the lot they have received and they want to improve their situation.

And in that context, then what we would like to see is a management of a fact of life about the vicinity, a rational management of that phenomenon which responds to real factors on the two sides of the border and in which that fact of the vicinity is what is creating something that governments will never be able to stop.

And in that context, then, what we would like to see is a process of negotiation in which we would reach, first, a common definition of the question and then, after that, we will have a common understanding of the costs and benefits of these phenomena for the two countries.

We strongly believe in Mexico, that this is a phenomenon that has costs and benefits for Mexico. But we also believe that there must be some common understanding between the two countries of the costs and benefits before we are able to see that ideal scenario of a managed phenomenon.

Now, in that respect, we have made very significant efforts in terms of looking at the diagnosis of the costs and benefits by doing research that has been funded by—indirectly by the World Bank through the National Council of Population and Secretary of Labor of Mexico in which there was an open bid for research contracts to try to find the number—a direct estimate of the volume.

Mr. Chairman, do you know—because you have been dealing with this question for a long time—that regardless of all of what has been discussed, the fact of the matter is that nobody knows a direct estimate about the volume of undocumented immigration from Mexico to the United States. That is a fact.

And regardless of all the discussions that we have, that fact is opening the way for irrational behavior, irrational avenues that have dominated, besides obscuring our objective visions of the phenomenon. So we have, in this research, in this open bid that I am referring to, my institution, which is a research institute, the word "colegio" in Spanish doesn't mean college. Our institute won the bid for this contract, and it is about two-thirds in its way.

This contract was indirectly funded by the World Bank. And we believe that in the spring of next year we will have some results of that which we hope that it could contribute to a better understanding of the costs and benefits of this phenomenon.

We also won a contest of research projects for the Mexican-United States Foundation that invested \$1 million, each country, each government, to fund scientific projects that were bilateral projects, together with a team of the University of Southern California. We won 1 of the 13 final research projects dealing with this question.

And my final point is that once we have a better understanding of costs and benefits—

Mr. MAZZOLI. Mr. Bustamante, I have a call that I have to take. Could we maybe have a 3-minute break, and I will be right back. [Recess.]

Mr. MAZZOLI. I apologize. Believe it or not, it was a call from Mexico City. So that ties in with what we have here. Mr. Bustamante, please proceed.

Mr. BUSTAMANTE. Not only in terms of the numbers that are needed to have a bilaterally shared diagnosis of the phenomenon based on scientific information but also in terms of possible solutions.

I would like to end with an idea that I suggested recently which is based on what we have found already in our research, which is a pilot project of a border nature of a free labor market at the local level between Ciudad Juarez and El Paso, TX.

The reason for this location, which is paradoxical, after having Operation Blockade taken place in that particular part of the border, this is perhaps the most integrated—economically integrated part of the whole border, Ciudad Juarez and El Paso. This is the part where 80 percent of all undocumented immigrants get across through Ciudad Juarez to El Paso, come from Ciudad Juarez. It is far from centers of immigration.

And somehow we have identified very well the flows toward the United States. Somehow, the migratory labor market is the most local of all the migratory labor markets along the border. So those data allow us to think that if the U.S. Government would entertain the possibility of putting the checkpoints of immigration further north, let's say 30 miles north from El Paso, and allowing El Paso and Ciudad Juarez to operate on the basis of a free local labor market, we could have an experiment that we could see in something that is taking place already, but illegally.

And this is something that I insist is not in the best interest to Mexico. We would like to see something in which law and reason would lead to perhaps one of the best opportunities we could have in the opportunity of bilateral relations, which is cooperation in labor. That is something that is far away from the actual political reality.

Right now what you have is divisions that the Mexican immigrant is the cause of a lot of calamities in the United States. And we in Mexico saw, in a very frustrated way, the term of Operation Blockade to see for the first time the term "blockade," which defines a country as an enemy, apply to the bilateral relations between the two countries. And that is in contrast with the reality of the border that, as it was indicated here, last year there were more than 200 million crossings, that is people that want to do something on the other side of the border with the cooperation of somebody on the other side of the border. This is the reality in contrast with the rhetoric.

And I think that these efforts that you are making here could be very well an avenue to finding the conditions of reasonableness that we need to find a reasonable solution to this common problem.

Mr. MAZZOLI. Thank you very much, Mr. Bustamante. Very interesting and certainly thought provoking.

[The prepared statement of Mr. Bustamante follows:]

PREPARED STATEMENT OF JORGE A. BUSTAMANTE, PRESIDENT, EL COLEGIO DE LA
FRONTERA NORTE

A Mexican saying claims that politics is the art of doing what is possible. The balance of power between Mexico and the United States is asymmetrical, and from a political perspective, it seems impossible that Mexico can correct this imbalance by decree. The asymmetry is very dynamic, however, and political and economic conditions in the different regions within the two countries play increasingly important roles in the U.S.-Mexican relationship. We are no longer able to speak about Mexico as a homogeneous entity and to make generalizations about economic development without identifying distinctions between different regions and different sectors of the economy.

When examining Mexico, an underlying assumption should be that it is a nation of enormous contrasts. Certain developments have allowed the industrial sector of the country to compete with some of the most advanced in other parts of the world. At the same time, other sectors resemble some of the poorest, most underdeveloped countries. This contrast must be taken into account in order to understand what is occurring in Mexico regarding NAFTA. A generalization leaning toward one extreme or the other is going to be problematic, if not mistaken.

In this context, this article discusses the question of international labor

migration from Mexico to the United States, beginning with some basic assumptions. First, NAFTA was a political strategy that was the best option in the absence of other feasible options for Mexican economic development. Economic development was primarily a strategy to create a massive number of permanent jobs, under the assumption that the creation of these industrial jobs would improve income distribution in Mexico. This is an important facet of economic development because within the western hemisphere, income inequality in Mexico is second only to Brazil. It was assumed that an improvement in income distribution would in turn improve the standard of living. Obviously, this logic cannot be applied in a homogenous way to all conditions in all regions of the country. It applies only to certain conditions, understanding that the Mexican people must be able to benefit from the opportunities conceptualized in the free trade agreement.

NAFTA was originally proposed by President Salinas. This is a fact that must be emphasized to combat the negative impression that the NAFTA is somehow a result of the asymmetry of power between Mexico and the U.S. or an imposition of the United States upon the less powerful nation of Mexico. It is important to clarify the position of the President of Mexico vis-à-vis the President of the United States. Critics have asserted that President Salinas somehow put all of his eggs in one basket by dealing with President Bush. When in reality he had no choice. The Mexican government, represented by the head of state, dealt with the U.S. government, represented by the head of state, and negotiations began. In fact the NAFTA took the

United States government by surprise. In Mexico, however, free trade was an option carefully studied prior to any public proposition. It was fully developed, however in the context of a very difficult process of negotiation.

The Negotiating Process

One of the difficulties surrounding the social dimension of free trade arose very early in the negotiating process. In fact, before the formal process of negotiations started, the U.S. government established one very clear basic premise. Labor migration was not going to be on the negotiating table. Again, if politics is the art of what is possible, then Mexico had two options. To insist on including the labor migration question on a take in or leave it basis or, yielding with the hope of a better opportunity within the negotiating atmosphere of trade liberalization. Once the negotiations of NAFTA culminated with an agreed upon draft, president Salinas informally proposed to the US government to start separate negotiations on the labor migration question.

Political and economic conditions changed greatly during the two years of negotiations. From the beginning, the Mexican government decided to open the process of consultation to representatives of different sectors of the economy. They organized the advisory committee on the free trade agreement negotiations, consisting of representatives of the business, organized labor, agricultural, and academic sectors of Mexican society.

It could be argued that this is not a completely accurate representation of all parts of the Mexican economy. Many groups, however, spoke openly in favor of their own interests, demonstrating some disagreement among the different sectors. Regardless of what happened with the NAFTA, this debate spurred tremendous progress in the organization and communication of the business community in Mexico. Such an organization of the private sector had no historical precedent; never before had such diverse segments of the Mexican economy united a national effort. A new network, connected through state-of-the-art communications technology, became involved in the creation of the "next-room" negotiating context. Private sector representatives were always in the next room with the negotiators, ensuring that whatever was negotiated had their backing.

To say that these negotiations were conducted in secrecy, without the knowledge of the Mexican people, is simply not true. Obviously, however, an essential element of any negotiating process is that the various sides do not show all of their cards to the public. Negotiations proceed through a mechanism agreed upon by those involved, not through the mass media, political parties, or other institutions. In this way, each country was assured that their best interests were advanced.

The negotiations were in some ways a reflection of the asymmetry of power between Mexico and the United States. Canada played an integral part of the negotiating process sometimes leaning to one country, sometimes to the other.

During these negotiations, it was understood that the question of asymmetry had to be dealt with in terms of the gradual implementation of the agreement. Although this was an explicit way to address the asymmetry, it may not have been sufficient. The President of Mexico and the United States and the Prime Minister of Canada signed The Text of NAFTA only to open what is becoming the most difficult phase of the trilateral agreement.

New Questions for Further Negotiation

Results of the November election in the United States created a different dimension, of NAFTA. President Clinton was not willing to take the agreement reached with his opponent as a fait accompli. Partisan politics forced him to demand an input from his administration into the final product, which is known as the "parallel agreements". These focus on three questions: a) environmental standards, b) labor standards, c) "import surges".

The political agenda of President Salinas aside, an economic strategy has been discussed, supported by the private sector, and introduced to organized labor and agriculture. These groups have all presented their cases, and the resulting agreement was finalized with a great deal of national consensus. More than 80 percent of those polled are in favor of the free trade agreement negotiated by the Mexican government.

The electoral victory of President Clinton opened a new ball game for NAFTA.

Formal negotiations are taking place, and that is the context in which the recent statements made by President Salinas must be understood. A significant change of emphasis was noted when he said that NAFTA was only one element of his economic strategy for the nation.

In terms of environmental issues, there is little disagreement. The two sides share basically the same definitions at the governmental and grassroots level, and neither country wants to do anything that will hurt the environment. Some in the United States mistakenly believe that the Mexican people would allow the Mexican government to settle NAFTA on the basis of lower standards of environmental regulation. The fallacy of this impression is demonstrated by the grassroots environmental movements that have arisen in Mexico at various points along the border with the United States.

Bilateral commissions have dealt actively and intensively with the question of the environment. Agreements have been reached, and legislation has been shaped out of these agreements. These agreements are not perfect, nor will all groups be amenable to them, but their existence represents the important difference between the question of the environment and the question of labor. In the area of labor issues, the U.S. elections realigned some priorities and options covered under the NAFTA.

One particular new set of options addresses the question of labor migration.

The two sides of the border exhibit significant differences in the definition of this question. In the United States, the question of undocumented immigration is defined as a crime-related phenomenon which requires a law enforcement solution. In Mexico, undocumented immigration is considered an economic, labor-related phenomenon. The two governments bypass each other with definitions that are entirely unconnected, leaving little hope for common ground.

Labor Migration

President Salinas has suggested for the first time in many years that the discussion of immigration with the Clinton administration is a priority for the Mexican government. Immigration negotiations in this case would have to overcome from the outset disagreement about the definition of the problem, and also over the right figures to be used to quantitatively define its impact on society and economy respectively. Hoping that an agreement can be reached regardless of these fundamental differences, the Mexican government has initiated a strategy in which the first premise is to verify the credibility of data and scientific information about the costs and benefits of immigration. President Salinas and others have made it clear that both sides must agree upon a set of information that will not become a political football between the two countries, and to utilize the data in a reasonable way to rationalize the question of immigration.

One project has been counting, observing, and interviewing a systematic random sample of undocumented immigrants as they cross the border between Mexico and the United States. The most intensive crossing point on the 2,000 mile border is Tijuana. The survey began in September, 1987. Interviews are conducted on Fridays, Saturdays and Sundays, when the most intensive crossing occurs.

According to this study, 60 percent of the total number of undocumented immigrants have destinations in the state of California. This number varies during the year. With the highest number volume in the summer months and the lowest in December. In the summer of 1991, for example, approximately 1.75 million undocumented immigrants had crossed into the United States. In December, that number declined to approximately 800,000, a difference of almost one-half.

Illegal immigration is difficult to accurately calculate, but studies like this one can generate some estimates about remittances, which are extremely important for the Mexican economy. In 1991, Mexican workers working in the United States remitted approximately \$3.5 billion to Mexico. The origin of migrants is highly concentrated (80 percent come from 10 states in central, western, and northern Mexico), so remittances have a significant impact on the local economies of these migrants.

The study estimates that no significant impact will be felt in the phenomenon

of undocumented immigration in the first five years after the signing of the NAFTA. In six of ten years, the impact will be no more than a 25 percent reduction in the volume observable today. In 11 to 15 years, the study predicts a maximum reduction of 50 percent. This figure will increase exponentially as time goes on.

The NAFTA's impact over the next five years will be minimal because most of the jobs created in Mexico will require a different skill level than possessed by the average migrant. The psychological impacts of NAFTA will register first, as people hear that jobs are opening although they may not benefit directly from these new jobs, they will hear about them and tend to stay in Mexico. The direct economic impact will register when the creation of jobs begins to create additional labor markets in Mexico. These assumptions are based on *ceteris paribus*, that is, if nothing else changes from what it is known today about this international migratory phenomenon.

Undocumented immigration and its related conditions are sensitive issues on both sides of the border. In Europe, there is a general misconception about undocumented immigration. Many seem to believe that surreptitious movement across the border is unilateral desire of Mexican citizens in that region. It is not well known in Europe that the United States was, until recently, the only country in the world where immigration legislation allowed employers to hire foreigners who had entered in violation of immigration laws. This juridical aberration was corrected in 1986 with the passage of the Immigration Reform and Control Act (IRCA). But IRCA

has a loophole, one that makes a mockery of sanctions upon employers of illegal aliens. Americans who hire foreigners must prove, with certain documents, that their workers are in the country legally and have the right to be employed. But American employers are not legally obligated to keep copies of these documents. That is the loophole. Thus, questionable situations place the word of the employer against the word of the INS official or anyone challenging the employer's decision. The most important effect of the IRCA has been a mushrooming of the trade in forged immigration documents. At the inception of the IRCA in 1987, the cost of a forged document in San Diego was about \$500. Today that price has fallen to around \$10.

This unnatural phenomenon was created by forces that have made undocumented immigration part of a de facto international labor market, one that responds to the interaction of a demand for cheap labor in the United States and a willing supply in Mexico. Mexico and the United States have established no communication regarding the definition of this phenomenon. Obviously, if the United States were to accept the definition of undocumented immigration as a labor-related phenomenon rather than a crime-related phenomenon, the cost of labor would increase. As a result of the asymmetry of power between the two nations, however, the United States does not have to do that.

This asymmetry remains one of the most complicated elements in the aspirations of integration aspirations that have already been realized at the border,

It is well known that many of the workers involved in immigration flows into the United States return to their country of origin. In the case of migration from Mexico to the United States, which has persisted for over a hundred years, not only has there been a return flow but it has included the majority of migrants. These workers return to Mexico after a migratory "career" that involves alternating stays in the receiving areas in the United States and in their home communities in Mexico. Such a migratory "career" can continue for several years, but it generally ends with an aging worker's definitive return to Mexico. Obviously this is not true in every case. A growing proportion of migrants is choosing to remain permanently in the United States. Perhaps the decision to remain in the United States or to return definitively to the home community is a function of the intensity of the interaction between the sending community and the receiving community, reflected in the number of family members that the first-time migrant has in the United States. That is, the fewer family members a migrant has in the United States, the more likely it is that he will return definitively to Mexico.

Data obtained from the Cañón Zapata project reveal a process of circular migration from Mexico to the United States which is clearly related to the geographical proximity of these two countries. By circular migration it is understood here, the process by which an individual alternates stays in Mexico and the United States, for more than six months, between his or her family residence and job residence, until either age, success or failure, makes him or her to permanently establish his family residence at some point of his or her circulatory route, either in

where the free market has operated for many decades. In Tijuana, for instance consumers already enjoy the options that are expected to result from the NAFTA, if it is signed. Producers at the border have already seen changes take place in the labor force; certain parts of the labor force are already operating under conditions such as "total quality", "and just-in-time" production formulas.

The question of labor migration, in the context of negotiation, could thus be more complex and difficult than negotiations of the NAFTA itself. Economics, social inequality, human rights, politics, and a multitude of other sensitive issues are all related to the question of labor migration in the two countries. Unless the parties find a way to utilize the experience of the NAFTA and view this question in a manner that seeks to establish a rational solution, irrational conditions will continue to prevail. At the same time, border relations will continue to demonstrate the extent to which the Mexican people of this region will take advantage of conditions of free trade.

The Mexican side of the border, contrary to popular assumption, is not the region with the lowest unemployment or the lowest wages in the country. There are some areas in Mexico, a heterogeneous country, where wages and unemployment are both very low. But the notion that every worker in Mexico is waiting for the right moment to jump across the border is entirely false. The relationship between immigration and the NAFTA is far more complex.

Circular Migration between Mexico and the United States

Mexico or in the United States.

The notion of circular migration holds methodological and theoretical implications. Methodological, because of at least two reasons, a) length of stays in the United States might be increasingly long, returns to Mexico become increasingly short and job residence becomes permanent as a result of family reunification. Then, new entries to the United States from Mexico might increase the volume of the migratory flow giving to the observer the impression of an increase in immigration to the United States, when in fact he or she is observing an increase in the intensity of a circulatory movement, including Mexican citizens who might have moved on a permanent basis to the United States. On the other hand, b) when measured properly, circulatory migration might become an indicator of the intensity of the interactions between "structural conditions" and "factors" located at the two sides of the border, which are associated to the phenomenon of international migration between the two countries. Theoretical, because of at least two reasons. First, the definition of a migrant should no longer depend on his or her position in the map but on his or her engagement in an international labor market. Traditional definitions of a migrant require his or her crossing of a geographical boundary for certain period of time. The notion of a circulatory migration should be operationalized from the theoretical assumption that a migrant is a person who is no longer a permanent resident of his or her home town because of a decision that implies to join an international labor market by responding to a perceived labor demand in another country. This means that a migrant is a migrant from the moment he or she has left home with the intention of looking for a

job in another country.

The other reason is, that as a consequence of the above, for the purpose of an estimate of the number of international migrants, the count of them should begin when they join the migratory circle, regardless of whether that person has crossed an international border or not. The migratory circle includes the geographical space between the last permanent residence and the place of migratory destiny. The latter could be of various types. From an attempted destiny to an actually reached one. The analyst's selection of the type of migratory destiny might depend on the scope of the analysis. The important implication here is to include all persons who are in the international migratory circle in the enumeration of international migrants, whether or not they have left the country of origin or reached the country of destination.

The following table shows the Mexican states with the highest proportion of actual undocumented migrants as they were detected by our interviewers in the last five years. It is noteworthy the appearance of The United States in the list of the those who crossed through the cities of Tijuana, where they represented 7.1 percent of the total for that city; Mexicali, where they represented 2.2 percent and; Ciudad Juarez where they represented 1.6 percent. The inclusion of the United States in this table was due to the question which asked for the actual "state of residence". There were persons interviewed who stated not to have a residence in Mexico any more and to have a permanent residence in the United States. This data suggest a paradoxical situation of an undocumented immigrant who states not to have a residence in his or her country of origin. These data reinforces the need for the concept of "circulatory

migration" where the assumption is, that in order to know the actual cost and benefit of international migration for the countries of origin and destination respectively one needs to know how many there are in the "migratory circle". The operationalization of this concept should allow a better understanding of the relationships between the costs and benefits of international migration for the two countries by taking into account where and how the costs are borne for the reproduction of the migrant labor force. In other words, in the theoretical context of international circular migration, one could say: a) that circularity exists between an economy of origin and an economy of destination which are brought into interaction through migration; b) if the migrant is understood as "human capital"¹ needing to be reproduced, the reproduction of this "capital" involves a cost to the economy of origin and a net benefit for the economy of destiny, where this human capital is generating wealth with its labor; therefore c) the economy of origin is subsidizing the economy of destiny where this subsidy is equal to the savings that the receiving economy realizes when it takes advantage of human capital for which it did not pay the costs of reproduction.

Both the methodological and the theoretical implications of the concept of circulatory migration are alluded in the following diagram. This diagram include two dimensions (theoretical and methodological) of what should be analytically viewed

¹This concept is used as understood by G.S. Becker in *Human Capital; a Theoretical and Empirical Analysis*. New York, N.Y.: National Bureau of Economic Research. 1975.

from a Weberianist perspective as an "ideal type"² of an international labor market.

The operationalization of the concept of "human capital" corresponds to the operationalization of the concept of "structural conditions" as one of the "factors" both, on the supply side, in terms of its production and, on the demand side, in terms of its use. It is hoped that this conceptual framework will suggest the means to measure the dimension of costs and benefits of international migration, something not attempted to date, perhaps because no adequate theoretical framework existed.

Migratory Flows

The circular nature of international migration between Mexico and the United States can best be measured when we are able to identify migratory flows in spatial, temporal, and numerical terms. The fact that most undocumented migrants cross at some point along Mexico's northern border, where they can be interviewed, has enabled the Cañón Zapata project to identify principal flows in terms of their origin and destination. The measurement of migration flows has been the surest means devised thus far for calculating variations in the volume of undocumented migration; this is the case because efforts to measure undocumented migrant stocks are hindered by the fact that the undocumented status of these individuals forces them into a covert existence in the United States. Measurements of migration flows are even

² At least three sources should be consulted for a basic understanding of what Weber meant by an "ideal type": *Ideal Type*; *Economy and Society*, (edited by Guenther Roth and Claus Wittich) New York, N.Y.: 1968, pp. 20-22; M. Weber, "The Meaning of Discipline", in: *From Max Weber* (H.M. Gerth and C. Wright Mills (eds.)) New York, N.Y.: Oxford University Press. 1958. p. 42 and; M. Weber, "Objectivity in Social Science and Social Policy" in: *The Methodology of Social Sciences*, E. A. Shils and H. A. Finch (eds.). New York, N.Y.: Free Press. 1949. p. 104.

more valuable when we can determine the socioeconomic characteristics of the migrants, even though this technique has not allowed us to determine the number of undocumented immigrants there are in the United States. The ongoing research of the Cañón Zapata project has illustrated the importance of focusing on flows as the key element in the analysis of international migration between Mexico and the United States.

Migrant Stocks

Despite advances made toward calculating the total number of undocumented Mexican migrants in the United States, including the recent work of David Heer,³ these calculations are still indirect by necessity. A number of factors have made it impossible to get direct counts of the population of undocumented Mexican migrants in the United States at any specific moment. Thanks to the ENEFNEU studies done at the end of the 1970s, we know that the number of undocumented Mexican migrants may fluctuate by over 50 percent in a given year. We also know that the lowest numbers regularly occur in December and the highest in July and August. Unfortunately the count of how many undocumented migrants there are in the United States has become highly politicized. On occasion, political interests in the United States inflate these numbers to their highest credible levels, something I reported as early as 1979 (see Bustamante and Ham 1979) and as recently as 1990 (see Bustamante 1990).

³See David Heer, *Undocumented Mexicans in the United States* (New York: Cambridge University Press, 1990). This book includes the most serious and complete effort that I have seen so far, to calculate the number of undocumented Mexicans residing permanently in the United States.

As an attempt to de-mythify the numbers game about the volume of undocumented immigrants' flows, we have developed at El Colegio de la Frontera Norte a new methodology in the social sciences, inspired in the procedures for sampling of mobile populations developed in biology statistics. An adaptation of this sampling procedures has been designed for survey techniques applied to the measurement of socio-economic characteristics and volume of undocumented immigration from Mexico to the United States. We have completed successfully a pilot study and have begun a large scale application of such a sampling technique in an on going project funded by the World Bank, scheduled to be completed in the spring of 1994. The main objective of this project is to produce a direct estimate of the number of undocumented immigrants from Mexico to be found in the United States at a certain time, by focusing on patterns of circulatory migration flows as observed at several Mexican border cities. The experience and data obtained over six years of weekly observations through the Zapata Canyon Project have provided the necessary empirical information to support basic assumptions of the new project, such as the parameters of time and space necessary for the sampling design, aimed to directly measure the stock of undocumented immigrants from Mexico through the measurement of migratory flows.

International Migration as a Process of Interaction

RECENT FINDINGS FROM THE ZAPATA CANYON PROJECT⁴

⁴This is the Zapata Canyon Project which basically consists of a survey technique where personal interviews are systematically conducted at the main crossing sites of the Mexican-U.S. border in the cities of Tijuana, Mexicali, Ciudad Juarez, Nuevo Laredo and Matamoros, to a randomly selected sample of individuals on the Fridays, Saturdays and Sundays of every week, ever since September of 1987 to the present. This project has produced the only time series data base on the flows of undocumented migration from Mexico, other than the statistics on

Data presented in the following tables are drawn from a selection of basic socio-economic characteristics of undocumented immigrants from Mexico. Table 1 shows a selection of socio-economic characteristics of Mexican undocumented immigrants over the last 6 years. In regard to sex, table 1 shows a relative stability in the proportion of women. It should be noted however, that there are significant variations when data is broken down by state of origin. Then, migrants from the metropolitan area of Mexico City show the highest proportion of women (24%) whereas states more rural in the origin of migrants such as Guerrero that proportion drops to less than 10 percent. An important methodological finding could be stated. The more urban in origin, male and female migrants' data should be analyzed separately in order to account for significant differences by gender in the migratory behavior, as it is suggested by data shown in table 3.

In regard to age, data of table 1 suggests there is a tendency toward a higher concentration in the most productive age cohorts (between 20 and 30). This could indicate an increasing competition in the labor market in the United States and or a shorter "migratory career", meaning the time through which an individual keeps himself or herself in the circulatory process of migration between the two countries.

In regard to education (years of school attended) it is interesting to note a decrease

apprehensions produced by the U.S. Immigration and Naturalization Service. Previous findings from this project have been reported, among others, in the following publications by the author of this paper: "Undocumented Immigration: Research Findings and Policy Options", in R. Roett, *Mexico and the United States: Managing the Relation*, Boulder, Co.: Westview Press. 1988; "Measuring the Flow of Undocumented Immigrants", in V. Cornelius and J.A. Bustamante eds., *Mexican Migration to the United States: Origins, Consequences and Policy Options*, San Diego - La Jolla, Ca.: Center for U.S.-Mexico Studies-University of California. 1989; "Undocumented Migration to the United States: Preliminary Findings of the Zapata Canyon Project", in : F. Bean et al. eds., *Undocumented Migration to the United States*, Washington, D.C.: The Rand Corporation and the Urban Institute Press. 1990.

in the percentages of the least educated, which suggests an increase in the "human capital" value of the undocumented immigrants.

One of the most important findings reported in Table 1 is the relatively rapid increase of the urban origin of undocumented immigrants from Mexico (13% in less than 6 years). A hypothesis could be drawn from this finding in the sense that there is a higher cost for the economies of origin of these migrants associated to an outmigration of a labor force that appears to be of an increasingly higher "human capital" value.

Data resulted from the question, "have you ever had a job in the United States?" at the bottom of Table 1, provides some empirical foundation to the notion of a "circulatory migration" put forward here. The increasing pattern of the affirmative responses suggest an increasingly intensive circulatory movement of these migrants between the two countries.

Table 2 shows some patterns of destiny of undocumented immigrants from Mexico. It confirms previous findings about the increasing preference for California in general and Los Angeles in particular, among undocumented immigrants from Mexico. Showing a marked concentration in the migratory destiny of these migrants, this table shows almost two thirds of the total number of Mexican undocumented immigrants in route to the whole United States, to be heading toward California. If one note that 1993 data include only the first two months, a pattern of preference for Los Angeles becomes clearer. This pattern of concentration seems to be enhanced by the relative decline in the preference for other regions of the United States or Canada in addition

to the decline in the percentages of migrants who responded not to know where they were heading at the time of the interview.

Finally, Table 4 shows what amounts to an empirical basis to support the contentions made above about of the persistence of a United States labor demand of Mexican undocumented immigrant's labor force. This table indicates the reported previous job experience in the United States of individuals getting ready to enter the United States again. It is noteworthy the increasing pattern in most of the activities, except in farmworking where a clear decline seems to be taking place. This seems to be congruent with the patterns of increase in education levels among undocumented immigrants.

Table 5 and the year by year tables from 6A to 6F, show the patterns of preference where the state of California appears as the stated destination for the majority of undocumented migrants. These table show also the high degree of concentration in the migratory flows through the city of Tijuana, which is congruent with the preference for California.

TOWARD A PRAGMATIC APPROACH TO MANAGE LABOR MIGRATION FROM MEXICO

In a manner of a symbolic synthesis of the two parts discussed above, an idea for the initiation of a bilateral process of rationalization of the labor migration phenomenon between the two countries is advanced here.

In early 1992 there was an important meeting in Washington, at which representatives of the Mexican and U.S. federal governments discussed the problems

of violence on their common border. On the eve of that meeting, a high-level functionary in the U.S. federal government, who asked not to be identified, told me, "there are no official proposals from the Mexican side on what to do about undocumented immigration; they only have proposals to talk about the problem, but not about how to resolve it." Meanwhile, of course, it is painfully clear that the U.S. government does have proposals. These proposals all share a common characteristic: all adopt the law enforcement focus that the U.S. government consistently places on undocumented migration. The U.S. government never wavers from defining this phenomenon as a crime problem requiring police-type solutions. The persistence of this view of migration from Mexico has led the U.S. government to categorically reject on principal the idea of considering labor migration within the negotiations of NAFTA. The U.S. government will only agree to deal bilaterally with the problem of undocumented migration if it is in relation to law enforcement policies. Its refusal to view the issue as a labor issue has been inflexible. However, this inflexibility has not been expressed openly and hence it has not appeared in the mass media. In my view, it is a political miscalculation on the part of the Mexican government to allow the U.S. government to acknowledge its inflexibility only within internal diplomatic circles. I had the opportunity, along with others to attend an ANUIES-PROFMEX conference in Mazatlán in 1990, to hear the opening of the free trade negotiations. A high-level functionary from the office of Ambassador Carla Hills presented the United States' official position on refusing to include the migration issue as part of the negotiations of this accord. The rationale put forward since that time is that labor migration would

only be included in the negotiation of a "common market," not of a "free trade agreement." This rationale masks the fact that the United States prefers to continue addressing the migration issue unilaterally as a crime issue, since undocumented migration provides an inexhaustible source of cheap labor that the United States can regulate and has regulated according to its economic needs. It also has an additional advantage: these migrants serve politically as scapegoats every time the U.S. government wants to hide from the U.S. public the true causes of some hardship such as high rates of unemployment, drug trafficking, or social unrest such as the recent disturbances in Los Angeles. To address the migration issue as a labor phenomenon would mean bringing it to the bilateral negotiating table, and that, in turn, would increase the costs of this labor force that is kept cheap by virtue of the fact that it is kept undocumented, and hence criminal. The United States' refusal to focus on undocumented migration as a labor issue saves the U.S. economy several billions of dollars every year. This is the chief reason for the current U.S. position, and it is what lies behind U.S. inflexibility on dealing with the migration issue as anything other than a law enforcement issue. This inflexibility is nothing other than a flagrant expression of the power asymmetry characterizing the U.S.-Mexico relationship across all dimensions, from the macro to the micro. In this light, the United States is unjustified in saying that "there are no official proposals from the Mexican side." This is asking to blame the victim.

This situation suggests that the Mexican government should formulate a proposal detailing what has been voiced by a series of Mexican presidents,

government ministers, and high-ranking members of Congress: a) that Mexico wants to export products, not people; b) that undocumented migration is a labor issue and a human rights issue; c) that these issues should be negotiated bilaterally in depth and over the long term. This has been the position of the Mexican government during the last four administrations, ever since President Echeverría decided over twenty years ago not to seek renewal of the Bracero agreements which had lapsed in 1965. The U.S. government has never officially accepted points b) and c) since the U.S. view does not accept that migration is a trans-border issue demanding "international cooperation." It continues to hold that migration is a domestic national security issue or a law enforcement issue. In order to correct this lack of a precise definition of Mexico's national interests in the issue of undocumented workers, I propose a strategy that includes the following steps:

A) Agreement by the two national governments to form a Bilateral Commission with three objectives: A1) to produce a bilateral report that defines and describes legal and undocumented migration, both of Mexican citizens to the United States and U.S. citizens to Mexico; A2) to discuss and defend this report before representatives of the respective legislatures and before representatives of the major media networks, of key associations from the private sector, and of organized labor from each country; A3) to act as consultants to the official negotiators of a Migration Treaty between the two countries, with Commission members filling this role in their respective countries. Negotiating such a treaty would be step B), which could only be attempted once the set of objectives outlined above -- A1, A2, and A3 -- had been accomplished.

The irrationality that permeates the mythology of Mexico-U.S. migration leads us to assume that a necessary precondition for reaching agreement on a Labor Migration Treaty would be to de-mythify undocumented immigration. This could be accomplished through a scientific analysis that would be produced and supported bilaterally, making it acceptable and credible on both sides of the border. Under current conditions, it is impossible to reach any agreement that would be acceptable to the respective political institutions and civil societies of Mexico and the United States. It is imperative that these conditions change. This would be the primary objective of the proposed Bilateral Commission. This Commission would be made up of one member from each country's respective government sector, and two members each per country from the business sector, organized labor, and academic institutions. It would have a budget with which to finance independent studies on the condition that they be bilaterally directed. Its secretariat or permanent staff would include members from both countries; these individuals would be charged with implementing the decisions of the Commission. Once the research efforts had produced their results and the negotiations of the Migration Treaty had begun, Commission members would act as consultants to their respective country's team of negotiators, except in the case of government representatives on the Commission, who could serve as members of their country's negotiating team. The complexity of the issue of migration between these two countries is so great that we should not expect its negotiation to be any less intricate than the negotiation of NAFTA. What the United States has to gain from a Labor Migration Agreement is not of a different nature than what is expected to be

gained with NAFTA; namely, a neighboring country economically capable to buy more USA made products and politically stable to institutionalize similar rules of the game than those of the neighbors to the north, joining strategies on a regional basis in order to compete successfully with the European Community and the Asian countries.

CUADRO 2.
DESTINO DE LOS MIGRANTES INDOCUMENTADOS MEXICANOS, POR AÑO DE
CRUCE A ESTADOS UNIDOS. 1988 - 1993

DESTINO	1988	1989	1990	1991	1992	1993*
CALIFORNIA						
Los Angeles	22.7	23.8	30.4	29.3	29.1	29.7
Resto de Califor.	22.2	26.7	25.2	26.7	27.9	29.1
TEXAS						
Houston-Dallas-						
S. Antonio-El Paso	21.4	20.6	21.6	23.5	21.8	21.3
Resto de Texas	1.4	0.8	1.1	1.4	1.3	0.6
CHICAGO	1.7	2.7	1.8	0.9	0.9	0.8
RESTO DE E.U.	13.2	8.7	6.2	7.0	7.7	7.5
CANADA	0.3	0.1	0.0	0.1	0.1	0.0
NO SABE	17.1	16.7	13.8	11.1	11.2	11.1
TOTAL	100.0	100.0	100.0	100.0	100.0	100.0

FUENTE: PROYECTO CAÑON ZAPATA. REGISTRO CONTINUO DE FLUJOS DE
 MIGRANTES INDOCUMENTADOS DE MEXICO A ESTADOS UNIDOS POR CA-
 RACTERISTICAS SOCIOECONOMICAS. EL COLEGIO DE LA FRONTERA NOR-
 TE. DE 1987 A LA FECHA.

NOTA: * = Enero - junio.

CUADRO 3.
MIGRANTES INDOCUMENTADOS QUE HAN TRABAJADO ANTERIORMENTE EN
ESTADOS UNIDOS, SEGUN SEXO. 1988 - 1993

	SI HA TRABAJADO EN E. U. (%)	NO HA TRABAJADO EN E. U. (%)	NO ESPECI- FICADO	TOTAL
1988				
Femenino	34.9	64.4	0.6	100.0
Masculino	48.4	51.1	0.5	100.0
1989				
Femenino	43.9	56.1	0.1	100.0
Masculino	43.2	56.7	0.2	100.0
1990				
Femenino	39.8	59.9	0.4	100.0
Masculino	43.5	56.2	0.4	100.0
1991				
Femenino	33.6	66.1	0.2	100.0
Masculino	53.7	46.1	0.2	100.0
1992				
Femenino	37.2	61.5	1.4	100.0
Masculino	58.1	41.5	0.4	100.0
1993*				
Femenino	38.8	60.4	0.9	100.0
Masculino	58.2	41.4	0.4	100.0

FUENTE: PROYECTO CAÑON ZAPATA. REGISTRO CONTINUO DE FLUJOS DE
 MIGRANTES INDOCUMENTADOS DE MEXICO A ESTADOS UNIDOS POR CA-
 RACTERISTICAS SOCIOECONOMICAS. EL COLEGIO DE LA FRONTERA NOR-
 TE. DE 1987 A LA FECHA.

NOTA: * = Enero - junio.

CUADRO 4.
MIGRANTES INDOCUMENTADOS MEXICANOS QUE HAN TRABAJADO ANTERIOR-
MENTE EN ESTADOS UNIDOS, SEGUN ACTIVIDAD DE EMPLEO.
1988 - 1993.

ACTIVIDAD	1988	1989	1990	1991	1992	1993*
TURISMO	8.3	8.2	7.6	9.1	8.5	9.0
SERVICIO DOMESTICO	16.6	21.7	22.3	23.8	21.4	18.7
OTROS SERVICIOS	6.6	6.2	8.5	5.8	6.9	6.6
ACT. AGROPECUARIAS	40.5	38.9	39.4	29.9	29.5	34.0
IND. TRANSFORMACION	9.4	9.0	6.4	6.4	6.8	6.4
IND. CONSTRUCCION	14.0	12.5	12.7	20.8	22.9	22.4
POR SU CUENTA	1.7	1.9	1.5	0.9	0.2	0.1
OTRO	2.9	1.6	1.7	3.3	3.8	2.7
TOTAL	100.0	100.0	100.0	100.0	100.0	100.0

FUENTE: PROYECTO CAÑON ZAPATA. REGISTRO CONTINUO DE FLUJOS DE MIGRANTES INDOCUMENTADOS DE MEXICO A ESTADOS UNIDOS POR CARACTERISTICAS SOCIOECONOMICAS. EL COLEGIO DE LA FRONTERA NORTE. DE 1987 A LA FECHA.
 NOTA: * = Enero - junio.

CUADRO 5.
DESTINO DE LOS MIGRANTES INDOCUMENTADOS MEXICANOS, POR CIUDAD
DE CRUCE A ESTADOS UNIDOS. 1988 - 1993

DESTINO	TIJUANA	MEXICALI	CIUDAD JUAREZ	NUEVO LAREDO	MATAMOROS
CALIFORNIA					
Los Angeles	41.2	21.7	2.1	1.5	1.1
Resto de Californ.	35.5	56.6	1.0	0.9	0.2
TEXAS					
Houston-Dallas-					
S. Antonio-El Paso	0.1	0.6	79.0	49.2	28.5
Resto de Texas	0.1	1.5	1.2	6.1	30.4
CHICAGO	1.3	1.2	0.9	4.1	1.7
RESTO DE E.U.	6.7	11.0	12.2	12.5	11.9
CANADA	0.1	0.0	0.1	0.4	0.0
NO SABE	15.1	7.5	3.5	25.4	26.3
TOTAL	100.0	100.0	100.0	100.0	100.0

FUENTE: PROYECTO CAÑON ZAPATA. REGISTRO CONTINUO DE FLUJOS DE
MIGRANTES INDOCUMENTADOS DE MEXICO A ESTADOS UNIDOS POR CA-
RACTERISTICAS SOCIOECONOMICAS. EL COLEGIO DE LA FRONTERA NOR-
TE. DE 1987 A LA FECHA.

NOTA: * = Enero - junio.

ESTADOS DE MAYOR EMIGRACION INDOCUMENTADA A ESTADOS UNIDOS
POR CIUDAD DE CRUCE FRONTERIZO. 1988-1993*

TIJUANA	%	MEXICALI	%	CIUDAD JUAREZ	%	NUEVO LAREDO	%	MATA- MOROS	%
MICHOACAN	13.6	SINALOA	12.7	CHIHUAHUA	31.9	N. LEON	17.7	TAMAULIPAS	32.2
JALISCO	12.4	MICHOACAN	9.8	COAHUILA	16.3	GUANAJUATO	15.6	S.L.POTOSI	12.8
D.F.	9.0	JALISCO	9.4	DURANGO	16.2	D.F.	11.6	VERACRUZ	10.7
E.U.	7.3	GUANAJUATO	8.7	ZACATECAS	9.4	S.L.POTOSI	11.1	CENTROAM.	6.7
OAXACA	6.8	SONORA	7.7	D.F.	6.5	COAHUILA	8.0	MEXICO	6.0
GUERRERO	6.4	D.F.	5.6	GUANAJUATO	2.2	ZACATECAS	5.3	N. LEON	4.3
GUANAJUATO	5.4	NAYARIT	5.4	JALISCO	1.6	MEXICO	5.1	D.F.	3.8
SINALOA	5.0	OAXACA	4.3	E.U.	1.5	CENTROAM.	2.9	MICHOACAN	3.2
PUEBLA	4.9	ZACATECAS	3.8	AGUASCALS.	1.5	QUERETARO	2.8	GUANAJUATO	2.6
MORELOS	4.3	GUERRERO	2.9	MEXICO	1.5	VERACRUZ	2.8	HIDALGO	2.2
MEXICO	3.6	MEXICO	2.3	PUEBLA	1.2	MICHOACAN	2.7	QUERETARO	2.2
ZACATECAS	3.5	E.U.	2.2	VERACRUZ	1.1	JALISCO	2.4	GUERRERO	1.6
NAYARIT	3.2	VERACRUZ	2.2	MICHOACAN	1.0	TAMAULIPAS	1.8	JALISCO	1.6
COLIMA	2.1	HIDALGO	2.1	S.L.POTOSI	0.9	DURANGO	1.6	ZACATECAS	1.0
SONORA	1.7	CHIHUAHUA	2.1	SONORA	0.9	GUERRERO	1.5	CHIAPAS	1.0
OTRAS	10.8	OTRAS	18.8	OTRAS	6.2	OTRAS	7.2	OTRAS	8.1

FUENTE: PROYECTO CANON ZAPATA. REGISTRO CONTINUO DE FLUJOS DE MIGRANTES INDOCUMENTADOS DE --
MEXICO A ESTADOS UNIDOS POR CARACTERISTICAS SOCIOECONOMICAS. EL COLEGIO DE LA FRONTERA --
NORTE. DE 1987 A LA FECHA.

* De enero a junio solamente.

Mr. MAZZOLI. Mr. Miller, welcome.

STATEMENT OF HARRIS MILLER, WASHINGTON REPRESENTATIVE, AMERICAN COUNCIL ON INTERNATIONAL PERSONNEL

Mr. MILLER. Mr. Chairman, I appreciate the opportunity to be here on behalf of the American Council on International Personnel. I am substituting for our chairman of the board, Mr. Fragomen, who could not be here for personal reasons.

Mr. MAZZOLI. Give him my best wishes.

Mr. MILLER. I appreciate that. I will do so.

I have submitted his statement for the record.

Of the four topics you listed at the hearing outset, allow me to address one: the business immigration provisions of the NAFTA. I may have some personal views on this very interesting debate today about the impact of NAFTA on illegal immigration, but that is not part of the ACIP official position.

I want to make four points. The first is that, in general, the business immigration changes brought about by NAFTA are not extensive. At the end of the day, the major impact on movement of personnel among the United States, Canada, and Mexico, will be de minimis from the immigration provisions.

The United States-Canada Free Trade Agreement has been in effect for almost 5 years. All of the provisions of that agreement that allow people to enter from Canada to the United States and from the United States to Canada are patterned on existing United States immigration laws. There were not major changes in U.S. law because of the free trade agreement.

Similarly, the changes that will be under the NAFTA agreement, if it is ratified, necessitated minor changes in U.S. immigration law. One of them is a provision, already referred to by an earlier panel, regarding the Mexican program which is analogous to the TC. It will be more restrictive for the Mexicans and require some conforming legislation.

The next point is that the NAFTA changes affect only the non-immigrant categories. They do not affect any of the immigrant categories. It is a relatively small group of people we are talking about. The basic immigration-related advantage that arose from the United States-Canada Free Trade Agreement is that it eased the processing time and procedures for the movement of skilled professionals from Canada to the United States and vice versa. It was not a dramatic increase in numbers, procedures, or categories.

The changes in NAFTA are not going to be any different. The nonimmigrant process for professionals would be simplified by creating mutually agreed upon lists of professionals to eliminate some of the case-by-case adjudication. There was some discussion earlier today of large numbers, but I think those numbers were deceiving. If you check with the Immigration and Naturalization Service you will find that those numbers are deceiving because those numbers are simply admissions, not individual aliens.

No one knows whether the number of TC's admitted to the United States is 30,000 or 40,000 or 50,000. INS does not know, and we don't know, whether that is 10,000 people entering three times or 20,000 people going twice, or 30,000 people, each coming only once.

Based on the experiences of our companies that use the TC program, you will find that most of these admissions are the same people traveling back and forth. The numbers used in the TC program are small. But I cannot present you with any definitive data; and, based on my conversations with the Government officials, neither can they.

Just a couple of other minor points I wanted to make based on some earlier questions. Someone that enters as a TC does have to either recross the border at least once a year or get a 1-year extension while here in the United States. It is a 1-year by 1-year program. Theoretically, the TC's could be here indefinitely. However, there is a need on an annual basis to check in with a Government agency.

Also, if a TC overstays, then he or she is out of status and working illegally. There is that form of check also.

One of the changes that the free trade agreement with Canada did bring about was making Canada one of the investor/treaty trader countries. That also meant that the United States investors have reciprocal privileges going into Canada.

My understanding is that the usage of this category has been very small. I have talked to Government officials who are estimating the numbers on an annual basis have been less than 1,000 from Canada. These are only investors and traders who either have substantial trade between the United States and Canada or who, if they are investors, have made what is called a substantial investment. There are very detailed regulations, which the Immigration Service has already discussed to meet these requirements. This is not a huge category. Some of the rhetoric gets overblown about the impact of these changes.

As far as how all of this carries over to NAFTA, the major change for the United States-Mexican relationship is also granting Mexico the E-1/E-2 status, the treaty trader/investor status.

Most people I speak with believe that the United States, if there is a balancing act here, got the better of the deal. Historically Mexico has been a difficult place for foreigners to invest in; and when they invest, Mexicans have made it difficult for the investors to enter and monitor the investments.

By granting the United States investors the privilege of entering in setting and up investments, and monitoring their investments by sending skilled managers and personnel to Mexico, this will give United States investors a better chance to make money through their projects in Mexico.

I know that some people believe there is a fundamental flaw in United States investors going to Mexico. But if one assumes that there is an advantage in going to where the money can be made, then there is the advantage in the E-1/E-2 program of being able to monitor investments.

The access of Mexican professionals to the United States, which you have discussed already extensively with the previous panels is very limited. As you indicated, unlike the TC people coming in from Canada, the individuals who will enter from Mexico in the professional category will be required to have their employers file what is called an attestation that the appropriate wages are being paid.

Also, the individual alien will have to have a petition filed with the Immigration and Naturalization Service under the legislation which INS indicated they intend to submit for your approval. The Mexicans will be monitored because of the numerical restrictions that you have in NAFTA, a maximum of 5,500 annually.

As you pointed out previously in your comments, this provision is in some ways discriminatory. But it also points out that the rhetoric that NAFTA will allow thousands of people from Mexico to come into the country and take jobs away from United States professionals is greatly overstated.

The last point I will make, Mr. Chairman, is that with your usual perspicacity, you have caught the Department of Labor in a contradiction. On the one hand, they wrote you a letter recently suggesting that there are major problems with the H-1(B) program; on the other hand they are saying in NAFTA that allowing the relatively easy movement of professionals across international borders is to our benefit.

Mr. Chairman, I think they are right the second time and wrong the first time. Mr. Reich's letter attacking the H-1(B) category was a hyperbolic reaction to the "60 Minutes" segment on aliens and other negative media attention. I do not deny that there are abuses of the H-1(B) category. But I am sure that the Department of Labor has informed you that investigations have been launched based on complaints, and companies have been fined. I understand that one company went out of business that was abusing the category. The complaint-driven H-1(B) process that Congress developed 3 years ago is working as it was designed. I have had some extensive conversations with you and some of your colleagues about this. ACIP believes the H-1(B) program does not need change. But that discussion is for another time and place.

Drawing the analogy to the TC program, I would reiterate what Mr. Katz said earlier. There are no evidences of abuses of the TC category. I understand the next witness is going to point to an example in which allegedly some TC aliens were brought in to replace striking workers. ACIP would not endorse or support any situation where aliens would be brought in as strike breakers. There is language in NAFTA, which is not in the United States-Canada Free Trade Agreement, which would be an improvement in this area making it clear that actions could be taken to prevent non-immigrant aliens from entering who would be involved in a strike breaking action.

In sum, the NAFTA-related immigration changes are not dramatic. They are an enlightened attempt to facilitate the movement of skilled personnel across borders to increase international commerce. It is also fair to say that they do not address, in fundamental ways, basic issues of immigration, especially illegal immigration, that you have spent most of the time today discussing.

Thank you very much.

Mr. MAZZOLI. Thank you, Mr. Miller.

[The prepared statement of Mr. Fragomen follows:]

PREPARED STATEMENT OF AUSTIN T. FRAGOMEN, JR., CHAIRMAN OF THE BOARD,
AMERICAN COUNCIL ON INTERNATIONAL PERSONNEL

I. Introduction

One year after top-level negotiators released the full text of the proposed North American Free Trade Agreement ("NAFTA"), U.S. Congressional approval of the agreement remains uncertain. What is certain, however, is that if approved, NAFTA would create the world's largest common market, and provide for the unprecedented facilitation of temporary entry for business persons working in the United States, Canada, and Mexico.

While the headlines have been full of allegations, prognostications and suppositions posited by NAFTA's proponents and foes, little attention has been paid to recent developments regarding the integration of immigration and temporary entry under the three controlling bodies of law; the U.S. Immigration and Nationality Act, as amended by the Immigration Act of 1990 ("INA"), the U.S.-Canada Free Trade Agreement ("FTA"), and NAFTA. This paper provides a broad overview of the similarities, as well as the differences, between the treatment of business persons under the three controlling laws.

The Three Controlling Bodies of Law.

1. The Immigration and Nationality Act.

When President Bush signed into law the Immigration Act of 1990 on November 29, 1990, observers recognized "employer-friendly" changes in the U.S. immigration law. Foremost among those changes was the expansion of the L-1 Intra-Company Transferee provisions and the E-1 Treaty Trader and E-2 Treaty Investor categories.

Less friendly, however, were the changes made to the H-1B Specialty Worker classification. The Immigration Act of 1990 ("IMMACT 90") introduced the U.S. Department of Labor into the nonimmigrant petition process for the first time, requiring the DOL's approval of a Labor Condition Application before H-1B status can be granted. As will be further detailed below, both the U.S.-Canada Free Trade Agreement (FTA) and NAFTA share the advantage that Canadian and Mexican "professionals" under NAFTA will not need to obtain prior INS petition approval (nor the prerequisite DOL Labor Condition Application approval) prior to seeking U.S. entry.

2. North American Free Trade Agreement.

Scheduled to take effect on January 1, 1994, NAFTA represents the combined efforts of the leaders of Mexico, Canada, and the United States to confront a unified European Economic trading bloc by, among other things, greatly facilitating the flow of business personnel between the three countries.

According to NAFTA supporters, the new trading bloc's impact on immigration will be that over the next twenty years, the free trade agreement will indirectly reduce undocumented immigration to the United States by increasing economic opportunities in Mexico and allowing Mexican workers to earn more in their home country.

The immigration segment of NAFTA, Article 1603, states that each of the three countries will grant temporary entry to four categories of business persons. The term "business person" is defined at Article 1608 of NAFTA as "a citizen of a [the United States, Mexico, or Canada] who is engaged in the trade in goods, the provision of services or the conduct of investment activities. For purposes of NAFTA, the term "temporary entry" refers to an "entry into the territory of [the United States, Mexico, or Canada] by a business person of another Party without the intent to establish permanent residence." Further, the four categories of business persons are very closely modeled on the existing

categories of the U.S.-Canada FTA, which in turn closely reflect the relevant provisions of U.S. immigration law under the INA. The four categories, to be outlined in detail below, are as follows: Business Visitors; Traders/Investors; Intra-Company Transferees; and Professionals. Annex 1603.

One of many unanswered questions involves the requirement of an entry visa for Mexican nationals entering the United States. Whether the business person be a short-term business visitor, intra-company transferee, investor, or professional, Annex 1603 provides that

a Party may require a business person seeking temporary entry under this Part to obtain a visa or its equivalent prior to entry. Before imposing a visa requirement, such Party shall consult with a Party whose business persons would be affected with a view to avoiding the imposition of the requirement.¹

Additionally, and of direct significance to Mexican nationals, is the provision that

With respect to an existing visa requirement, a Party shall, at the request of a Party whose business persons are subject to the requirement, consult with that Party with a view to its removal.²

¹ Annex 1603, Section 3 which deals with Intra-Company transferees omits the consultation requirement. It is unclear whether this was simply a technical oversight.

² Section 3 also omits this consultation requirement for Intra-Company transferees. Again, this may be mere oversight by the drafters.

By definition, this last provision can only apply to Mexican nationals, and not Canadian nationals, seeking to temporarily enter the United States. This is because there is currently no existing entry visa requirement for Canadian business persons entering the United States. Indeed, as will be further explained below, Canadian business persons--whether business visitors, investors and traders, intra-company transferees, or professionals--are termed "visa exempt" in that they need not present a visa for entry into the United States.

In direct contrast, there is currently an existing visa requirement for Mexican business persons seeking to enter the United States. It remains to be seen whether an accord between the United States and Mexico will be reached, lifting this requirement, and affording equal treatment to Mexican and Canadian business persons.

3. U.S.-Canada Free Trade Agreement.

Heralded by the leaders of the U.S. and Canada, the U.S.-Canada Free Trade Agreement (FTA), which took effect on January 1, 1989, was anticipated to enhance economic opportunities and create jobs in both countries.

One of the primary focuses of the FTA was, and continues to be, to facilitate business travel between Canada and the United States. To that end, the

FTA provided for temporary entry into the U.S. and Canada by business persons of each country under the following four categories: Business Visitors; Traders/Investors; Intra-Company Transferees; and Professionals. Note that these are the exact same four categories incorporated in the proposed NAFTA draft.

One of the most notable provisions under the FTA is that there is no need for a prior petition to be filed with the INS; rather, TC applicants merely apply at the point of U.S. entry, with documentation in hand. Of like importance is the fact that qualified Canadian nationals need not obtain a nonimmigrant visa prior to their U.S. entry.

II. The Four Nonimmigrant Categories and Their Respective Treatment Under INA, FTA, and NAFTA

A. Business Visitors

1. INA--B-1 Business Visitors

The B-1 Business Visitor classification is utilized primarily by business persons whose stays in the United States are brief and involve primarily conducting business on behalf of an overseas employer; the trips are temporary and cannot involve employment in the United States. In practice, a B-1 business

visitor will be granted only a period of entry necessary to conduct his or her business. Most such visits are approved for less than three months, and only in unusual circumstances would a stay of more than six months be granted. Further, the U.S. Department of State maintains a list of acceptable B-1 activities, and, in all cases, the legitimate business activity should be associated with international trade or commerce, with the principal benefit of the activity accruing to the business person or corporate entity abroad. There is no INS petition process; rather, an applicant for a B-1 business visitor visa simply applies for a nonimmigrant visa at a U.S. Consulate abroad prior to their planned U.S. entry.

2. FTA--Business Visitors Qualifying for B-1 Status

With regard to routine business visits, the FTA expanded the list of acceptable B-1 activities for Canadians. Included in the FTA is Schedule I, which in turn is an expanded list of activities already provided for by the B-1 category of the INA. Additionally, eligible Canadians need not obtain visas at U.S. Consulates abroad, but may simply arrive at a U.S. port of entry with proof that they will be engaged in the U.S. in one of the acceptable B-1 business activities. Under no circumstances may there be remuneration from a U.S. source. The Schedule I list of acceptable B-1 activities as expanded by the FTA, comprises the following:

1. Research and Design
2. Growth, Manufacture, and Production
3. Marketing
4. Sales
5. Distribution
6. After-Sales Service
7. General Service

General Services activities include professionals and computer specialists who would otherwise be classifiable as H-1B, but who receive no salary or remuneration from a U.S. source; management, supervisory, and financial services personnel engaging in commercial transactions for an enterprise located in Canada/the United States; public relations and advertising personnel consulting with business associates; tourism personnel attending or participating in conventions or conducting a tour that has begun in Canada/ the United States; and translators or interpreters performing services as employees of an enterprise located in Canada/the United States.

Significantly, the FTA provides for Canadian nationals to enter the United States in B-1 status in lieu of H-1B status (an advantage because there is no Labor Condition Application or INS petition process involved in a B-1 entry), where the activities the business person will be engaging in would normally be considered

H-1B activities, but where the individual is receiving no remuneration from a U.S. source.

3. NAFTA--Business Visitors

Section A of Annex 1603 of NAFTA would require the U.S., Canada and Mexico to each "grant temporary entry to a business person seeking to engage in a business activity set out in Schedule I." Schedule I is identical in substance and scope to Schedule I of the FTA. It is subdivided into several categories of permissible business activities. Accordingly, citizens of one of the three Party countries may enter another Party country in order to conduct research, take orders, deliver goods, perform after-sales service pursuant to a warranty or service contract, or engage in professional activities (for designated professions only).

Significantly, Business Visitor status will allow for the temporary entry of a business person without requiring that person to obtain the employment authorization that is required for NAFTA's Intra-company Transferee, Professional, and Investor/Trader categories. Indeed, Section A of Annex 1603 mandates temporary entry shall be granted upon presentation of three forms of proof. The documents to be presented are limited to the following:

1. Proof that the business person is a citizen of Mexico, Canada, or the United States.
2. Documentation demonstrating that the business person will be

engaged in an acceptable Schedule I activity and describing the purpose of the temporary entry.

3. Evidence demonstrating that the proposed business activity is international in scope and that the business person is not seeking to enter the local labor market.

A business person may satisfy the third requirement by demonstrating that:

- (a) the primary source of remuneration for the proposed business activity is outside the territory of the Party granting temporary entry; and
- (b) the business person's principal place of business and the actual place of accrual of profits, at least predominantly, remain outside such territory. A Party shall normally accept an oral declaration as to the principal place of business and the actual place of accrual of profits. If the Party requires further proof, it shall normally consider a letter from the employer attesting to these matters as sufficient proof.

Finally, with regard to how NAFTA will treat the issue of "B-1 in lieu of H-1," a broad reading of Section A of Annex 1603 appears to indicate that such substitutions will be permissible. Briefly, as applied to U.S. immigration law, a few classes of activities that would normally be barred because the alien is paid from a U.S. source, or is engaged in productive employment in the United States, are also on the State Department list.

Specifically, the following two classes of individuals who would normally require the rigorous H-1B petition process prior to entry, may obtain B-1 Business Visitor visas: 1) Persons rendering professional services in the United States that would qualify them for an H-1B visa, but who are being paid for those services by a source outside the United States; and 2) Persons employed outside

the United States who are paid from abroad, but who are coming to the United States to undertake an established training program that would qualify them for an H-3 visa.

In sum, these are activities that generally fall outside the limited number of B-1 activities set out by the Department of State. And, as applied to NAFTA, it is important to note that Annex 1603, Section A, Part 3, states that

Each Party shall grant temporary entry to a business person seeking to engage in a business activity other than those set out in Schedule I, without requiring that person to obtain an employment authorization, on a basis no less favorable than that provided under the existing provisions of the measure set out in [section 101(a)(15)(B) of the INA].

Thus, it appears that NAFTA will recognize the limited substitution of B-1 visas for H-1B purposes and temporary entry will be granted to business persons seeking entry in order to engage in business activities other than those set out in Schedule I.

B. Intra-Company Transferees

1. INA--L-1 Intracompany Transferees

IMMACT 90 expanded the definition of Managers, and also relaxed the definition of Specialized Knowledge employees. Additionally, the maximum length of stay in L-1 status for managers and executives was increased to seven

years from six, while the maximum period of stay for specialized knowledge employees remains at five years.

2. FTA--Intracompany Transferees

The inclusion of this classification in the FTA was primarily intended to provide U.S. nationals working in Canada with the same benefits that Canadian nationals enjoyed in L-1 status in the United States.

3. NAFTA--Intra-Company Transferees

Just as the FTA provided U.S. nationals with benefits in Canada similar to those enjoyed by Canadian nationals in the U.S. on L-1 visas, so to does the continuation of the intra-company transferee classification in NAFTA intend to primarily provide U.S. nationals working in Mexico with the same benefits that Mexican nationals temporarily assigned to the United States enjoy in L-1 intra-company transferee status. Specifically, NAFTA requires that each Party country grant temporary entry and confirming documentation "to a business person employed by an enterprise who seeks to render services to that enterprise or a subsidiary or affiliate thereof, in a capacity that is managerial, executive, or involves specialized knowledge, provided that the business person otherwise complies with existing immigration measures applicable to temporary entry."

In one particular marked departure from the INA's L-1 intra-company

transferee classification, NAFTA's Section C on Intra-Company Transferees does not impose an automatic requirement that the business person seeking temporary entry have been employed abroad for one out of the three years preceding U.S. entry. Rather, the language is permissive, stating that "[a] Party may require that such business person shall have been employed continuously by such enterprise for one year within the three-year period immediately preceding the date of the application for admission." As with several aspects of NAFTA, it remains a topic for speculation whether the final draft will more closely resemble the INA's stricter classification for intra-company transferee.

One final departure from the INA's L-1 classification is NAFTA's more narrow definition of corporate affiliation. The regulations codifying the INA include a foreign branch, subsidiary, parent, affiliate, or joint venture. In contrast, Section C of NAFTA limits the qualifying corporate affiliation to subsidiaries and affiliates of the proposed U.S. employer.

C. Traders and Investors

1. INA--Treaty Traders/Treaty Investors

Section 101(a)(15)(E) of the INA provides for the entry into the United States of an alien solely to carry on substantial trade or solely to develop and direct the operations of an enterprise in which he has invested or in which he is

actively in the process of investing a substantial amount of capital. Further, IMMACT 90 announced an increase in the number of countries from which nationals may obtain E-1 or E-2 visas, and restricted the definitions of "substantial trade" and "substantial amount of capital."

2. FTA--Investors and Traders

The provision for Investors and Traders in the FTA was designed to dramatically increase the number of Canadian entrants seeking temporary entry into the United States to carry on substantial trade in goods or services, in a capacity that is supervisory or executive or involves essential skills, principally between the United States and Canada, or solely to develop and direct the operations of an enterprise in which the business person has invested, or is actively in the process of investing a substantial amount of capital.

Thus, enactment of the FTA provided U.S. and Canadian investors and traders with a means of acquiring temporary entry even without the passage of a formal treaty of friendship, commerce, and navigation as is the normal situation. The interpretations given to the terms "substantial amount of capital," "substantial trade," "supervisory," "executive," or "essential skills," are not provided for in the FTA. Rather, the expanded definition of those terms as provided in the Department of State's September 3, 1991 regulations is controlling and should be consulted. (See 56 Fed. Reg. 43565, Sept. 3, 1991).

3. NAFTA--Investors and Traders

Heretofore, Mexican nationals seeking temporary U.S. entry in order to carry on substantial trade or to develop and direct the operation of an investment, have not been qualified for E-1 or E-2 visa status because the United States and Mexico have never entered into a treaty of friendship, commerce and navigation. However, under NAFTA, Mexican nationals will now be in a position to temporarily enter the United States for investment or trade purposes. Section B of Annex 1603 of NAFTA would require each of the three countries to grant temporary entry to individuals seeking to:

- a) Carry on substantial trade in goods or services principally between the territory of the [country] of which the business person is a citizen and the territory of the [country] into which entry is sought; or
- b) establish, develop, administer or provide advice or key technical services to the operation of an investment, to which the business person or the business person's enterprise has committed, or is in the process of committing a substantial amount of capital, in a capacity that is supervisory, executive or involves essential skills.

Significantly, the Investor/Trader provisions encompassed in NAFTA are broader in substance and scope than the existing Treaty Trader and Treaty Investor classification in the INA. For instance, indicative of its narrower definition, an E-2 Treaty Investor must be entering the United States "solely to develop or direct" the operations of an investment. In contrast, under the more liberal provisions of NAFTA, a business person may qualify for temporary entry based on the establishment of a new enterprise, the rendering of advice, or the

provision of key technical services. This broader definition should allow for an increased flow of personnel related with intra-country investments and trade.

D. Professionals

1. INA--H-1B Specialty Occupations

IMMACT 90 made significant and substantial changes to the H-1B Professional category encompassed in the INA. Of particular import is the requirement that all petitions for H-1B Nonimmigrant Status be accompanied by an approved Labor Condition Application.

2. FTA--Professionals Qualifying for TC Status

In addition to H-1 level Professionals paid from abroad who are admissible in the B-1 category as described above, a designated group of H-1 level Professionals who can be paid in the United States are admissible under the FTA without the requirement of an INS petition approval required in the H-1 category. The list of accepted professions qualifying for TC status, referred to as Schedule II, is comprised of 63 professions, including scientists, architects, engineers, economists, lawyers, librarians, and management consultants. As will be further detailed below, the designated professions in the FTA have been fully incorporated into the draft of NAFTA. Under the provisions of the FTA, Canadian nationals who would otherwise qualify for H-1B status may qualify for

TC status, by which there is no need for a prior petition to be filed with the INS, obviating the requirement of an approved Labor Condition Application and there is no outside limit on the period of time one may remain in Professional status.

3. NAFTA--Certain Professionals

In a move designed to calm worries by U.S. organized labor, Mexico and the United States have agreed to a transitional annual limit of 5,500 Mexican professionals who would enter the U.S. as nonimmigrants under NAFTA. This 5,500 limit, set out in Schedule III of Annex 1603 of NAFTA, is in addition to any Mexican nationals who already qualify under INA's H-1B provisions, and can be increased by agreement between the U.S. and Mexico, and will expire 10 years after NAFTA enters into force, unless the U.S. and Mexico decide to remove the annual cap earlier. ~~Canada has set~~ no numerical limit for Mexican business immigrants.

Under a controversial provision, described as "an important new protection for U.S. workers," one NAFTA member could refuse to admit a business person from another NAFTA country if employing that person might adversely affect a labor-management dispute.

Thus, Article 1603(2) permits a country to refuse to grant temporary entry to a business person if his or her entry might adversely affect "the settlement of

any labor dispute that is in progress at the place or intended place of employment," or "the employment of any person who is involved in such dispute."

III. What NAFTA Does Not Address.

The business community supports multi-national treaties that expand and liberalize immigration procedures. Nonetheless, it must be noted that NAFTA does not intend to address the full scope of migration issues affecting citizens in the United States, Mexico and Canada. Rather, NAFTA's immigration-related provisions apply only to four temporary visa categories, namely Business Visitors, Intra-Company Transferees, Investors/Traders and Professionals. Combined, these privileged groups represent a small fraction of cross border traffick, legal and illegal. Foreign nationals continue to enter this country illegally, employer sanctions and increased border enforcement notwithstanding. Moreover, in accordance with INS restrictions, consumers regularly cross the border to acquire goods and services either not available at home or more costly there. Those familiar with the border region understand the mutual dependency of the local economies at all levels. For example, the livelihood of U.S. retail merchants on the border depends on the continued patronage of their foreign neighbors. Obviously, financial services institutions market abroad and generate cross-border traffick. Furthermore, with the growing maquiladora or twin plant system, there has been an increase in the number of business persons who reside in their home country but simply commute abroad for the work day.

Some European observers have commented that there can be no free trade without

unrestricted mobility of the people across national borders. By necessity, NAFTA does not attempt to be all encompassing. It considers only the immigration issues cogent to a limited subgroup of temporary visitors engaging in commercial activity in one form or another. Possible areas of further inquiry include sweeping reform, *e.g.*, a North American passport permitting largely unrestricted migration across international borders, and limited reform such as amendments to existing immigration laws, *e.g.*, easing travel restrictions for consumers or expanding options for filling employers' needs for temporary workers.

Cross border migration is interrelated with the fundamental concerns voiced about NAFTA. Critics warn that United States manufacturers will establish operations in Mexico to avoid domestic environmental regulation. The manufacturers are drawn to Mexico in part owing to the lower-paid workforce. NAFTA does not address a possible means of accommodating the interested parties. A multi-lateral treaty could create a new temporary worker category that would enable Mexican workers to cross the border for employment at United States manufacturing facilities. This innovation raises complex issues in addition to concern for the local economies affected. Assuming the creation of the new temporary worker category, should NAFTA set forth a special class of rights and benefits to which the Mexican workers would be entitled?

In sum, though NAFTA's immigration provisions should be applauded for facilitating cross-border procedures for certain classes of business persons, the Treaty fails to address important issues and pressing concerns to the international business community.

Mr. MAZZOLI. Mr. Howley.

**STATEMENT OF JOHN HOWLEY, ASSISTANT DIRECTOR OF
PUBLIC POLICY, SERVICE EMPLOYEES INTERNATIONAL
UNION, AFL-CIO**

Mr. HOWLEY. Thank you, Mr. Chairman, as always, for this opportunity to testify. And I would like to focus particularly on the issue of the temporary entry provisions of the NAFTA agreement.

The Service Employees Union—I am testifying on behalf of the AFL-CIO. The Service Employees Union has been especially concerned about what is meant by the term “trade in services.” What is the sweep of this concept of trade in services?

And it seems that some of the best evidence we have is our experience with the United States-Canada Free Trade Agreement, which includes provisions which allow United States employers to go to another country and recruit professionals to work in the United States for a United States employer so that apparently free trade in services includes sweeping away many of the existing restrictions on nonimmigrant status that exist in United States law.

I am not talking here about treaty traders, which is an established category in trade law. I am not talking about intercompany transferees, which is something else that labor is concerned about. I am talking simply about allowing U.S. employers to recruit abroad. If that is included within the concept of “free trade in services,” then “free trade in services” is a very radical concept. If it is not part of “free trade in services,” then, as an earlier witness indicated, it should not have been in the United States-Canada Free Trade Agreement and it should not be in the NAFTA agreement. And that is where our concern is.

Our concern is not so much with the numbers involved. Canada is a small country. So any movement between the United States and Canada is going to be relatively small. We are concerned about the precedent which is established here. We are concerned about the departure from existing law which has been undertaken in the guise of a trade negotiation. And we were struck in 1989 by the coincidence of the very lengthy negotiations that were undertaken to enact the Immigration Nursing Relief Act to curb and try to get a handle on the hiring of nonimmigrant nurses in the United States as well as to build in some protections for those individuals.

And yet at the same time, we were negotiating with Canada to essentially sweep away that statute as it applies to Canada. And, too, with the NAFTA, after some phase in period—I haven’t seen the implementing legislation—but also we will be removing those restrictions with respect to Mexico as well.

I think the phrase that you used at the outset “glossing over” is entirely appropriate. This issue has been consistently glossed over, and neither from the previous administration or the current administration have we ever received an explanation of why these provisions were included in the Canada agreement or why indeed they should be in the NAFTA.

And so we are concerned about the precedent that is being set for the future. I am aware that trade in services is also on the agenda in the GATT context and that apparently that also involves discussing the movement of personnel. And, therefore, I think that

the issues here are much bigger than just how many people came in from Canada under the United States-Canada Free Trade Agreement but what precedent is being set for the future.

Regarding the issue of state professional licensure laws, the agreement is very explicit that state professional licensing laws shall not be barriers to trade, which means that the parties under the agreement can challenge a law as a barrier to trade.

And I think that—so again the trade in services agenda is a very ill-defined one with a great number of implications. You know it was a great shock to us when we were contacted by our local union in Watertown, NY, and they said, well, we have some people working as strike breakers who are from Canada; can't you check their H-1(A) visas? This is illegal. And we said, no, there is something called free trade which permits this.

And we do not believe that the language that was included in the NAFTA concerning labor disputes would prevent such a thing from happening in the future. The language in the agreement addresses primarily entry. There is no way that every border station is going to have information about every labor dispute that is going on that affects every occupation listed.

As long as people are coming across the border without visas, whether now or, in the case of Mexico, in the future, is that provision going to be enforceable? What we need is the ability to remove strike breakers, people who came across the border with the intention of working as strike breakers. And we don't think anything in the implementing legislation is going to permit that.

Finally, I think that, turning to the larger picture, we hear a lot of discussion if anyone loses their job under NAFTA, they will get a better job; and if they have any problem, we will give them assistance. But that is inconsistent with the other language that says we are going to permit U.S. employers to recruit professionals abroad.

Mr. MAZZOLI. Thank you.

[The prepared statement of Mr. Howley follows:]

TESTIMONY OF JOHN HOWLEY
ASSISTANT DIRECTOR OF PUBLIC POLICY
SERVICE EMPLOYEES INTERNATIONAL UNION, AFL-CIO, CLC
BEFORE THE
SUBCOMMITTEE ON INTERNATIONAL LAW,
IMMIGRATION AND REFUGEES
U.S. HOUSE OF REPRESENTATIVES
ON
"IMMIGRATION-RELATED ISSUES IN THE NORTH AMERICAN
FREE TRADE AGREEMENT"

November 3, 1993

My name is John Howley and I am the Assistant Director of Public Policy for the Service Employees International Union. I am testifying this morning on behalf of the American Federation of Labor and Congress of Industrial Organizations. On behalf of the AFL-CIO, I would like to thank Chairman Mazzoli for this opportunity to present our views on an issue of critical concern to the 16 million members of our affiliated unions.

While I will not reiterate organized labor's well-known critique of the North American Free Trade Agreement, let me approach the topic of today's hearing by citing just two elements of that critique. Firstly, the NAFTA is not just another trade agreement -- it is a radical and sweeping compact that reaches far beyond trade in goods and the provisions of which deserve far more scrutiny than they have received to date. The Temporary Entry provisions of Chapter Sixteen, an effort to re-write immigration laws in pursuit of an ill-defined trade in services agenda, are emblematic of NAFTA's radical sweep. This is neither the first nor last time we will see such provisions: they were present in the Canada-U.S. Free Trade Agreement (FTA) and the U.S. Trade Representative is currently negotiating similar temporary entry language on a multi-lateral scale in the Uruguay Round of the General Agreement on Tariffs and Trade.

Secondly, organized labor has consistently questioned the shaky political strategy that underlay the NAFTA -- an effort by the Bush Administration to consolidate continent-wide its de-regulatory, supply-side agenda by cutting a deal with sympathetic governments in Ottawa and Mexico City. This strategy was built on sand -- as the recent Canadian election shows. And, looking southward, we are now told that we must not turn our backs on a friendly government. To the contrary, continued support for the Salinas government, a government founded on massive election fraud, intimidation of political opponents, and government-dominated trade unions is a recipe for disaster. The combination of Salinas' unpopular economic reforms, the NAFTA, and intensified political repression is sowing the seeds of massive social dislocation in the future. Therefore, the argument that NAFTA will reduce undocumented migration to the United States from Mexico is wishful thinking. NAFTA plus the repression of unions and political opponents equals instability and social dislocation.

Since the opening of negotiations over the NAFTA, organized labor has consistently raised questions about the temporary entry through the Labor Advisory Committee on Trade Policy and Negotiations. Concern about temporary entry is widespread in the labor movement, having been expressed by the AFL-CIO Department of Professional Employees which speaks on behalf of three million professional union members in twenty-six unions. Interested affiliates include the United Food and Commercial Workers, the International Brotherhood of Electrical Workers, the American Federation of Teachers, the American Federation of State, County and Municipal Employees in addition to SEIU.

Our questions have been ignored first by the Bush Administration and now by the Clinton Administration. The only exception to this was the inclusion in the NAFTA -- by Bush Administration negotiators -- of its sole labor-protective provision which denies temporary entry privileges in the event of a labor dispute. However, without adequate implementing statutory authority, this language remains a mere acknowledgement of a problem that offers no remedy.

It is rewarding to review what has transpired under the FTA. That experience shows that the very phrase: "Temporary Entry of Business Persons" is highly misleading -- and probably intentionally so. In the temporal sense, there is nothing temporary about it. The "TC" professional entrants, as they are called, can remain in the United States for an unlimited period, so long as their employer doesn't fire them. So the word temporary signifies, in reality, a state of indentured servitude -- if you are fired for any reason, you are out of status and must return home. Guest workers are uniquely vulnerable to employer intimidation and are crippled in their ability to secure redress under the labor and employment laws of their own or host country.

Business persons is equally misleading. No one has shown that business persons, in the true sense of executives and entrepreneurs, were encountering difficulties entering the United States under existing laws. Indeed, the right of treaty-trader entry has long been negotiated and protected under international trade agreements. The purpose of both the FTA and the NAFTA was to go far beyond the treaty-trader category while using it as camouflage.

Far from being business persons, free trade professionals are in fact guest workers. Organized labor has always opposed granting U.S. employers the right to recruit abroad either temporary or permanent entrants absent a showing of real effort to find suitable resident workers. When applicants with appropriate skills cannot be found, employers should re-train resident workers and improve the compensation offered. Encouraging employers to recruit abroad, or use agents to recruit for them, creates a competitive disincentive for employers to provide training and re-training. The temporary entry provisions of the NAFTA, then, fly in the face of oft-expressed Clinton Administration policy regarding the need for greater employer training efforts.

It is claimed by supporters of the NAFTA that any displaced workers will be able to find equal or better jobs. Indeed, the Administration is promising to assist workers with re-training. But why bother re-training Americans for the good jobs when the NAFTA will permit employers to recruit qualified Canadians and Mexicans for an ever-expanding list of professional occupations?

This question becomes especially pertinent when one turns to the chapter on "Cross-Border Trade in Services" which makes the very definition of professional qualifications subject to the vagaries of trade negotiations. Chapter Twelve of NAFTA calls for the Parties to harmonize their professional licensure standards. The chapter explicitly grants Parties the right to challenge state professional licensure laws as unfair barriers to trade.

SEIU's concern originally arose when we realized that the FTA had repealed the carefully-crafted provisions of the Immigration Nursing Relief Act of 1989 (INRA) which requires employers to show that they have training programs to fill vacancies, that there is no labor dispute in progress, and so forth, prior to obtaining an H1A temporary immigrant visa on behalf of an employee. Thanks to the FTA which became effective in January 1989, healthcare employers could now recruit Canadian RNs who could enter as "TC" entrants under the FTA, entrants who otherwise would have needed H1A visas. I am not aware that the legislative history of INRA makes any reference to the FTA.

TC entrants do not need visas at all. They enter upon presentation of proof of citizenship, qualifications and a job-offer letter. Since 1989, over 50,000 Canadians have come to the United States as temporary entrants under the FTA. According to INS data, professional entrants have jumped by more than 50 percent each year. The largest and fastest-growing category, after "unknown," is registered nurses (RNs). In 1992, they accounted for 27 percent of FTA entrants.

Of course, the picture may in reality be much different. The INS data cited above do not even identify the profession of fully one-third of the professional entrants, even though the FTA grants temporary entry privileges to specific occupations only. It goes without saying then, that INS has no information about where these TC entrants are or what they are doing or whether they are still in the United States.

Members of the Service Employees Union have suffered as a direct result of the FTA. In February 1992, SEIU members at a hospital in Watertown, New York, went on strike to resist their employer's demands for wage and benefit concessions. A short time later, the employer went openly to Kingston, Ontario, and set up a recruitment center. In press reports, the hospital's personnel manager cited the FTA without which they would have been prevented from recruiting scabs in Canada. About a dozen Canadian nurses were recruited in this way to work as scabs while SEIU members walked the picket line. The strike dragged on for eight months and our members eventually returned to work with little to show for their sacrifice.

In the absence of adequate implementing language, the words of the NAFTA's Chapter Sixteen are a cruel hoax. What statute will empower the INS to arrest and deport scabs who enter the United States in violation of the NAFTA or empower the Department of Labor to impose fines on employers sufficient to deter abuse? The answer is: None.

There are those NAFTA supporters who will claim that Chapter Sixteen is consistent with existing U.S. law. To the contrary, the NAFTA represents a major departure from existing law in the following areas.

The NAFTA helps to codify the lax enforcement and abuse of the B visa category. While the statute currently states that B visaholders may perform no skilled or unskilled labor, some NAFTA Business Visitors obviously will do so. The agreement cites a number of salaried and hourly paid occupations who will qualify for B visas under NAFTA. In order to qualify for Business Visitor status, the worker must draw his or her pay from Mexico or Canada. Considering the proliferation of forms of contingent employment relationships, it is not difficult to imagine that employee leasing or temporary help firms located abroad could supply workers to U.S. work places.

The NAFTA blows a hole in the painstakingly crafted Immigration Act of 1990 which established an overall cap on temporary and permanent immigration to the United States. According to Chapter Sixteen, there will be an annual cap of 5500 professionals from Mexico (over and above the world-wide cap of 65,000) and no cap at all for Canada. This cap ceases after ten years, if not sooner.

The NAFTA will have the effect of repealing the INRA for Canada and Mexico. While the NAFTA requires entrants to meet existing immigration requirements, these requirements are defined in such a way that professional entrants seeking to work as RNs may not need to obtain H1A visas, or if they do, said requirement is to be phased out in three to ten years.

The NAFTA gives wide latitude to the Executive Branch to modify the Chapter's provisions in consultation with the other Party. This includes raising the 5500 limit on Mexican professionals after one year and removing the numerical limit after three years.

The NAFTA accession clause means that any other country in the world can gain access to NAFTA's temporary entry provisions. Of course, the United States could negotiate special conditions for each country that joins, just as it did with Mexico. But that makes our immigration laws subject to the give and take of trade negotiations -- which is precisely not the way to make good law in the sensitive and complex area of immigration.

The AFL-CIO will continue to oppose the rewriting of our nation's immigration laws through trade negotiations. Where serious bilateral migration problems exist, as is the case with Mexico, it is entirely proper for the two governments to seek mutually acceptable solutions. But that dialogue, which is fraught with difficulty, ought not be further burdened by the pressures of trade issues.

On behalf of the AFL-CIO, I would like to thank Chairman Mazzoli for this opportunity to present our views on this crucial topic.

Mr. MAZZOLI. Mr. Hinojosa.

STATEMENT OF RAUL A. HINOJOSA-OJEDA, ASSISTANT PROFESSOR OF PLANNING, GRADUATE SCHOOL OF ARCHITECTURE AND URBAN PLANNING, UNIVERSITY OF CALIFORNIA, LOS ANGELES

Mr. HINOJOSA-OJEDA. Thank you. I welcome this opportunity to tell you a story and explain to you how I have gone, in the last few years of intense study about NAFTA and immigration, from being an early vocal critic of the need to concentrate on exactly the poorest elements of the United States and Mexican society that could be susceptible to the negative impacts of NAFTA to studying this issue extensively, proposing a series of recommendations which we felt was essential to be dealing with what I consider the most essential challenge, the United States-Mexico migration relationship, and finally coming here to the committee to report that I am now convinced with the NAFTA and additionally the side agreements and a series of other policy initiatives that have been proposed parallel to the NAFTA that we really do now have the best opportunity that I have seen in decades—if not in the history of United States-Mexico relations—to begin dealing in a cooperative fashion with the root causes of inequalities which had perpetuated this pattern of migration.

Let me briefly go through the steps of this long research process, because a lot of people have unfortunately taken some elements of this research out of context to support one or the other position.

We started looking at this issue in 1990 right when it was suggested, and we basically asked the question: What are the complex set of supply and demand issues that many people have talked about today?

We have done extensive modeling, the most advanced modeling in the field on this area as well as a series of field work sets of operations in the sectors of both United States and Mexican economy most potentially affected by NAFTA.

And we have tried to understand how that fits into the broader context of United States-Mexico labor market interdependence, primarily the role of the demographic interdependence.

What we find is that the demographic dimension of the relationship between Mexico and the United States is what is going to drive the migration phenomenon over the next 10 to 20 years. In fact, what we know is that any hump that you may expect over the next 10 to 20 years is primarily one of a demographic phenomenon from the Mexican side to the extent that, while population growth has slowed, labor, new entrants into the labor market, still have a way to go before they will go from their current level of 800,000 new entrants into the labor market down to 200,000 at the beginning of the next century.

So the good news is there is light at the end of the tunnel. But the question is: How do we best handle the transition of this particular hump?

In this context, we looked at also the demand for labor, particularly the fact that the United States actually is having a declining number of new entrants into the labor force and is demanding immigration. In this broader context what is the impact of NAFTA?

That is what we looked at. And we saw there are three types of alternative scenarios. And we did a series of experiments, if you will, looking at what could happen, specifically looking at the most vulnerable sector, the agricultural sector in Mexico, and the import competing sectors in the United States economy.

In this country where you are finding most of the demand for immigrant labor is in the sectors, particularly manufacturing and agriculture, to developing countries like Mexico.

I agree with Dr. Bustamante, we are talking about a linked labor market that has got to be understood. And if NAFTA wasn't done right, we could have negative impact on the labor market.

What we looked at and said, what would happen if you immediately reduced all tariffs, nontariff barriers, and subsidies to Mexican agriculture, obviously an extreme assumption just to get a handle on the bounds of the potential problem that we had.

And what we found not only with NAFTA but in general, both economies produced better paying jobs and a net creation of jobs, on both sides of the economy.

What the problem could potentially be was in the agricultural sector. And, indeed, if this draconian liberalization did take place with nothing else, you would have potential out-migration problems.

And then we asked the question: What if you just said no to NAFTA? I mean, would this, in a sense, help the situation? And what we found is, indeed, it would not help the situation. Primarily because these transformations in Mexican agriculture, particularly the reduction of subsidies and the privatization of land, were going to take place with or without NAFTA.

At least with NAFTA, you would have some net employment growth in the rest of the economy. And what we found is that rejecting NAFTA will probably result not only in a declining growth in Mexico, nobody is predicting that NAFTA will result in increasing growth there, but also a steep devaluation, thereby making United States wages and jobs much more attractive in the short run, as well as not deal with the longrun issue of how you really get long sustained growth in Mexico.

Well this created a certain set of dilemmas that we tried to be responsive to. What are the alternative policies? We suggested three things that had to be all simultaneously presented.

One was extremely long phases particularly in the corn sector of the economy, which is the most vulnerable sector, bar none.

And two was a program of income support as subsidies would be reduced in Mexico to make sure that there is a long transitional program of income support in the countryside in Mexico.

And third, finally, was a set of resources mobilized toward the rural development in particular that would be able to sustain the basis for these potential immigrants with their income support to have a set of investment possibilities that could create a context for staying there.

And in that spirit, we propose the North American Development Bank idea, which is very similar in a sense to what the Europeans did when they integrated with poorer countries that were also migrant-sending regions, to assist this transition particularly in the rural development area.

I am happy to report that, in fact. And to a certain degree, to my surprise, when I first started this research, all three of these policy decisions have been adopted now; and it was not our intent when we wrote this paper in 1991.

Not only do you have long phases, particularly in corn, but you have a really dynamic, extraordinary program—that I would recommend that there be more study of—proposed by the Mexican company called Procampo that will increase the amount of funds made available to the rural sector but change its construction fundamentally so it is going to the poorest of the poor, particularly, farmers with less than three hectares that have traditionally been dependent on corn production.

And, finally, is a series of financing mechanisms not only with the World Bank, the IDB, and the Mexican Government directly on rural development but the North American Development Bank, which is an integral part of looking at the investment problem. Beyond training; training for what? But really thinking of this as a long-term development dynamic that we need in institutions to look at that problematic.

I would conclude. I know that it is late in the day, but I have gone through this extensive study and this transformation that I have been convinced that we really, at this point, clearly need to support this type of an agreement for setting the foundations for long-run cooperation.

Clearly, on the development front but also in the short run, it would clearly make no sense at all for anybody to suggest that you are going to vote against NAFTA because you are going to try to stop immigration. That is not in the cards not only in my research but all the other ones.

[The prepared statement of Mr. Hinojosa-Ojeda follows:]

**STATEMENT BY
RAUL A. KINOJOSA-OJEDA, PH.D.
BEFORE THE
SUBCOMMITTEE ON INTERNATIONAL LAW, IMMIGRATION AND REFUGEES, OF
THE COMMITTEE ON THE JUDICIARY,
U.S. HOUSE OF REPRESENTATIVES**

NOVEMBER 3, 1993

Mr. Chairman, I welcome this opportunity to explain to your committee the evolution of my research and policy recommendations with respect to the link between NAFTA and immigration, an issue which I have devoted a great deal of study to over the last three years. I want to relate how I have gone from being an early and vocal critic regarding the need to explicitly consider the potential negative impacts of NAFTA on the poorest members of North America, particularly in the migrant sending regions of Mexican agriculture; to proposing a series of policy options on what must be done to address these adjustment issues head on; to now coming before this committee to report that I am convinced that NAFTA plus the recent side agreements and related policy proposals must be supported as the best chance we have had in decades, if not the history of U.S.-Mexico relations, to begin dealing with the root causes of regional inequality that has led to the current high levels of Mexican migration to the United States.

I am also convinced that "NAFTA-Plus" is not only clearly the best long run option, but that particularly in the short run, the worst option in terms of increasing the outward pressure for undocumented migration to the United States would be the defeat of NAFTA. Finally, I welcome the opportunity to publicly disavow those NAFTA critics that are making use of my early research to oppose NAFTA. This misuse of our academic research is nothing but a thinly veiled attempt to use the populist demagoguery of immigrant bashing to avoid facing the real issues of how we can move to build a more prosperous and equitable North America on both sides of the border.

I. Research on the Relationship between NAFTA and Migration

As someone born in Mexico and raised in the U.S., I have always sought to make sense of the economic inequality between Mexico and the United States and its relation to international migration. Since graduate school, I have been involved in studying various aspects of the political economy of U.S. Mexico relations,

always factoring in the role of labor and labor migration. My research has shown that labor migration is a function of a complex set of supply and demand factors in the context of an evolving pattern of binational economic development and an evolving pattern of institutions in both countries that regulate the rights of immigrant workers and workers in general.

Since the announcement of the NAFTA negotiations in 1990, I have examined closely the relationship between migration and the liberalization of trade and investment policies. Along with my colleagues at the University of California, we developed an number of highly detailed static and dynamic computable general equilibrium models of the relationship between NAFTA and migration. We constructed multi-sector models, with special attention to the agricultural sectors and other immigrant sending and receiving sectors, including the role of agricultural policies and the effects of the enforcement or non-enforcement of labor rights and standards.

Our models are the only ones designed to explicitly examine the international migration linkage related to NAFTA, including rural to rural and rural to urban migrations. We have also concentrated our analysis of the impact of NAFTA on a on detailed set of labor market segments, including rural labor, urban unskilled, urban skilled, managers and professionals.

Our research showed that U.S.-Mexico migration is primarily driven by a complex series of push and pull factors that are largely independent of NAFTA. The major driving supply side force of migration is and will continue to be demographic. While population growth rates have declined in the last twenty years, new entrants into the labor markets are about 800,000 a year, declining slowing until the year 2000, and will then fall quickly to about 200,000 a year early next decade. The good news is that there is clearly light at the end of the tunnel relatively soon, significantly reducing one of the largest patterns of demographic and labor market interdependence anywhere in the world.

The demand for immigrant labor will continue quite strong in the U.S. for the foreseeable future, due to our own demographic transition to an aging population with fewer and fewer new entrants to the labor force from our own population base. Many sectors of the U.S. economy will continue to depend on immigrant labor. This is not only true in the service sectors but ironically in many of the same agricultural and manufacturing sectors which will face increased import competition from developing countries like Mexico. Given this reality, our hypothesis was that NAFTA could have potential impacts on precisely the migrant sending sectors in Mexico and the immigrant receiving sectors in the U.S. that will bear the brunt of potential adjustment.

It is in this overall context that we began to evaluate the potential impacts of NAFTA. We looked at a variety of alternative scenarios for the elimination of tariffs, non-tariff barriers, and agricultural subsidies. Given the reality of U.S.-Mexico asymmetrical interdependence, especially the small size of the Mexican economy relative to that of the U.S., it is not surprising that we found only a very small net positive impact of NAFTA on the U.S., as have virtually all other economic models on NAFTA. We found that net U.S. job growth would be strongest in the high paying sectors of the economy. We also found that net job growth would be much slower in the lower wage, immigrant receiving sectors of the U.S. economy. NAFTA would actually slow down the rate of demand for immigrant labor relative to better paid domestic labor.

Like virtually all other models, we found the impact on Mexican job growth was also net positive for most of the economy as a whole. Yet, we were very worried about the agricultural sector, particularly since a major subsidy policy reform was also being contemplated at the same time as NAFTA was being negotiated. We drew attention early in 1991 to Mexican agriculture, particularly corn, because it is in fact the poorest and most vulnerable sector bar none throughout the entire North American economy. While corn employs about 6.3% of the Mexican labor force, it is only responsible for about .7% of GDP, clearly the lowest productivity sector in the country. Mexican corn is also the most protected sector, with about a 45% ad valorem tariff equivalent. In addition, corn is also the most subsidized crop, with the Mexican government traditionally buying corn from domestic producers at considerably above the world prices and selling it below world prices in the cities.

In running our models through a series of alternative scenarios, we asked the question of what would happen if NAFTA immediately reduced all tariff and non-tariff barriers to corn while at the same time Mexico eliminated all subsidies. Clearly an extreme set of assumptions, we wanted to understand the outer-bound dimensions of the potential adjustment burden in order to evaluate the policies, resources and time frames that would be needed to address the challenges of incorporating this poor segment of the population into new, higher income activities in a more prosperous and integrated North American economy.

We found that under these extreme assumptions in a comparative static model, rural incomes and production would fall dramatically and there would indeed be a potential for large scale out migration. Interestingly enough, the elimination of subsidies and the reform of land tenure were responsible for more than 2/3 of the out migration effect, while even a draconian NAFTA would itself be responsible for less than one third of the effect.

Our studies also showed that by not adopting NAFTA, combined

with the likely go ahead of Mexican agricultural reforms for budget reasons with or without NAFTA, the pressures for out migration would be even greater. While with NAFTA Mexico would benefit for the positive growth potential, without NAFTA growth in Mexico would certainly slow down and thus so would employment generation and real wage growth. In addition, the failure to adopt NAFTA would reduce investment, exacerbate pressures on the Mexican exchange rate, and increase the likelihood of a sharp devaluation. The effect of this would be to reduce Mexican real wages and increase the attractiveness of dollar denominated U.S. wages for potential migrants. Not one study, either pro or anti NAFTA, disputes the conclusion that without NAFTA, Mexico's growth will suffer as a consequence.

II. Alternative Policy Considerations under NAFTA

Mindful that neither a too rapid liberalization under NAFTA or a rejection of NAFTA would benefit poorer workers and potential migrants, we asked the question as to what set of policy recommendations would be optimal from the point of view of both growth and equity. Writing in the Summer of 1991 during the NAFTA negotiations, we also considered as part of our modeling research a series of other scenarios designed to determine what alternative policies, resources, and time tables should be made part of NAFTA to actually generate higher income possibilities for the poorer and vulnerable sectors of Mexican and U.S. labor markets.

We identified three policy initiatives that needed to be pursued as part of the implementation of NAFTA:

- (1) Extended phase-ins for the reduction of corn trade barriers;
- (2) Continued financial support for rural produces; and
- (3) Financial resources made available for sustainable rural development.

We felt it was necessary for all three of these recommendations to be implemented simultaneously since the potential positive impact of each recommendation is dependent on its reinforcement from the other. For example, simply providing continued direct income support for producers while rapidly reducing protection and failing to provide funds for overall rural development could simply lead to the financing of out-migration.

In particular we called for the formation of a North American Development Bank that would be capable of mobilizing resources to address the adjustment needs of communities on both sides of the border. This proposal was based on the positive experiences of the European Regional Development Fund, the European Social Fund, and

the European Investment Bank which continue to be instrumental in closing the gaps in income levels between rich and poor countries within the European Community.

Our modeling showed that if these policy concerns were addressed, NAFTA and related growth could in fact have a net positive effect of reducing the pressures for out migration, raising living standards of poorer workers on both sides of the border. Ironically this reduction in migration to the United States would have a negative impact on economic growth north of the border since Mexican would-be migrants would be withholding their valuable labor resources from the U.S. economy.

I am please to say that all of our policy recommendation have in fact been incorporated in the set of policies now being proposed as part of NAFTA or parallel with NAFTA.

With respect to phase-ins on corn tariffs, the NAFTA allows for up to 15 years for their elimination. With the additional NAFTA related growth to Mexico estimated on the order of 1.5 to 2%, employment and real wage expansion should start catching up with labor force growth well before the mandatory end of the tariff protection.

With respect to continued financial support for rural producers, I would draw your attention to a significant new initiative that the Mexican government recently announced after years of planning. Called PROCAMPO, this new support program for the Mexican farm sector is a really extraordinary set of policy changes that will go a long way towards transforming the Mexican agricultural sector into a much more productive set of activities while actually increasing the transitional income support of the poorer members of the countryside, reducing rural inequalities, and protecting the environment from currently damaging farming practices.

PROCAMPO will replace Mexico's current schemes of support for grains and oilseeds that provide guaranteed prices payments with a completely decoupled program of direct income support. Not only will the total resources for the countryside immediately increase by about 40% to \$US 3.8 billion, but the distribution of support payments will shift significantly from wealthier farms to smaller, poorer producers, especially those with less than three hectares. Producers will receive cash payments for a fifteen year transition period based on historical average yields and will be able to redirect the use of their lands towards other more efficient uses within a much less distorted rural price structure. Our preliminary estimates of the effect of PROCAMPO indicates that it will increase the incomes of potential migrants while providing the possibility of investing these income transfers into the reconversion of small plots of land to other profitable crops.

Along with the NAFTA related growth, the immediate pressures for out-migration could actually decline.

Finally with respect to the availability of financial resources for adjustment and investment in vulnerable sectors, two important developments have occurred. One is the announcement of significant Mexican government, World Bank and IDB resources for rural development which will accompany the implementation of PROCAMPO. The other is the recent announcement by the Clinton Administration that it is adopting the idea for a North American Development Bank as a part of the NAFTA implementing bill. The NADBank, as it is called, is based on a proposal by Representative Esteban Torres and other NAFTA critics who with the NADBank are now supporting NAFTA. NADBank will be capitalized at \$3 billion, and will be able to mobilize along with government, multilateral and private resources at least \$20 billion in project finance for border and non-border activities in the U.S. and Mexico.

The NADBank is significant not only because it will upon its creation be the largest single institution in the history of U.S.-Mexico relations, but because it is explicitly created as a mechanism to address the issues of regional inequality and sustainable development, mobilizing more development resources for this purpose than has ever been pledged in North America. With its innovative, transparent and publicly accountable governance structure, it can help provide a framework for redefining the issues of North American integration and migration as a development challenge rather than as the all too common zero sum dialogue of acrimony that is characterizing the debates on both NAFTA and immigration.

III. Immigration and the NAFTA Debate

While our intent with this modeling research was to draw the attention of the NAFTA negotiators to these important issues and to advance a set of policy recommendations, the results of this research have been repeated misused and mis-characterized by critics of NAFTA who have wanted to enlist the fear of immigrants in their cause of defeating NAFTA.

Such is the recent case of some NAFTA critics, including some members of congress, who have chosen to base oppose NAFTA by taking out of context one of our migration scenarios. These critics invariably cite only the migration results based on the extreme and now completely untrue assumptions of an immediate corn liberalization with an immediate and total elimination of subsidies. This abuse of our research is not only misleading as to the real effects on migration with NAFTA, it also ignores the detrimental effects of reject NAFTA on poor potential migrants.

Our studies show that NAFTA in combination with the other policy initiatives I have described, provide not only a historic opportunity to directly address the root causes of migration in the long run and is the best option to reduce short run migration. Failure of the U.S. congress to enact NAFTA will increase the short run pressures for undocumented migration from Mexico to the United States and will forfeit one of the best opportunities in the history of U.S. Mexico relations to begin directly attacking the root cause of migration.

Mr. MAZZOLI. Gentlemen, thank you very much. Very interesting statements all around.

Let me go back to Mr. Bustamante sort of quickly. It is your position that there is confusion at least, and maybe worse, about what constitutes undocumented entry, whether it is good or bad.

NAFTA is attractive to you first because there is a possibility of improving the conditions in the sending country. But you also talk about your proposal for an open area; you use Tijuana and El Paso.

Has that ever been done anywhere? Is there any precedent for that? It certainly is interesting, too, when, if you accept the fact that the people who are coming across the Rio Grande everyday are not displacing U.S. people who want those jobs, and that they are going to go back at night, they are not a constant presence for using social services.

So maybe could you briefly address the situation as you see it, whether or not there is a precedent for anything like that?

Second, is it something that is only applicable to places like El Paso and Tijuana?

Mr. BUSTAMANTE. Mr. Chairman, there is no precedent for that.

But certainly the second question, it would be an experiment that would, according to our data, according to our research, would prove the advantages of the integration in the international labor market in a rational way.

But at the same time, in taking advantage of the local conditions of a historically developed labor market that is already there and has a de facto isolation shape enough to make an experiment, that will not be necessarily something that would create very serious repercussions if it doesn't go the way the theory suggested.

Mr. MAZZOLI. So it is a good laboratory to try this out in that particular sector?

Mr. BUSTAMANTE. Yes. This is something that, according to the research data that are available, would be the most appropriate to begin something that we see is an avenue for the future. But we have to be cautious of that.

Mr. MAZZOLI. I appreciate that.

Mr. Miller, you referred to a letter that I read from Secretary Reich. Are you concerned at all about the fact that under the Canadian Free Trade Agreement, we really do not have any clear knowledge of how many people have taken advantage of it? Whether there are, as you say, 30,000 people or 10,000 three times, where they are, whether, in fact, they go back?

Does it bother you that the program that we are patterning the Mexican NAFTA program, the TC program, is itself so undefined?

Mr. MILLER. I would answer on two levels. On the first level, yes, I would like to have the data because the discussions would be a lot more enlightened if we had the data. I think INS is overburdened already, but to the extent they could track the data, then we would have a much more intellectual argument rather than arguing from gut feeling.

Having said that, my gut feeling is that, no, there is not a problem. I have not been aware of professional organizations or unions bringing to the attention of the employer community or to the Government problems with the TC category.

You have had Government witnesses testify this morning that they are not aware of problems, including the Department of Labor, which is not sympathetic to employers.

The witness that followed me did identify a potential abuse: bringing in workers to replace striking workers. But that would be unacceptable, and is prevented in NAFTA.

Based on ACIP's experience, we are not aware of anyone abusing the TC category for bringing in people at low wages or bringing in people to displace U.S. workers. It doesn't seem to be a function of the TC program.

Mr. MAZZOLI. There is no attestation at least with regard to Canadian workers. There will be for Mexico?

Mr. MILLER. Right.

Mr. MAZZOLI. Which suggests that, at least there is at possibility that some of the people may not be being paid prevailing wages and whatever else the attestation would contemplate; is that correct?

Mr. MILLER. Commissioner Meissner provided an answer to that question earlier when you raised it.

Because the United States and Canada have comparable wages for professionals, at least wages in the same ballpark, the expectation is that people moving back and north across the border United States-Canada are not being advantaged or disadvantaged in terms of their wages.

Keep in mind that only 63 occupations are on the K list. The list is mutually agreed after extensive negotiations.

In the Mexican situation, on the other hand, as you are correctly pointing out, there are disparities in terms of wages earned by professionals in Mexico as opposed to certain professionals in the United States.

That is why the argument has been made that the labor condition application is appropriate for Mexicans.

Mr. MAZZOLI. Mr. Howley, why do you think that our negotiators did not put something into the NAFTA to control illegal immigration?

Mr. HOWLEY. Well, I think that both the previous administration and the current administration—

Mr. MAZZOLI. I think if you would get the microphone—

Mr. HOWLEY. Both the previous and the current administration wanted to avoid any controversy that would be aroused by such a discussion. And that is, in fact, why they have consistently insisted that there is nothing in the agreement about immigration, even though the temporary entry provisions do affect the immigration and the jurisdiction of this committee.

Mr. MAZZOLI. Would it have been a better thing? Or do you think it would have been more able to be merchandised in this country were there to have been by the negotiators some anticipation of the concerns that were raised by some of us today and concerns that have been raised pretty much across the country about immigration illegally?

You perhaps heard this morning the concerns that I expressed to Ms. Meissner which is, unless we do something about illegal entry, we are going to have a hard time keeping people who believe legal immigration should be stopped or reduced and people who believe

that asylum programs are, in fact, a problem, instead of a proper response of one nation to people from another.

Do you think it would have helped if they had done something like that? Or is there something that, when you are two proud sovereign nations dealing across a table, you can't talk about that?

Mr. HINOJOSA-OJEDA. In my research, I am actually looking at regional integration in many parts of the world. And one thing that we do find, particularly in the European experience, is a commitment which was made: Look we are stuck together geographically for hundreds of millions of years; we have to do something about this. And they began a process of discussions on regulating the pattern of economic integration that started there.

What is clear about that experience that is what political scientists call spillover effects. Once you start this process on working together on some areas, which I think the NAFTA is really a breakthrough on the front, that it raises exactly the type of concerns that you are saying that highlighting it, we have to begin to discuss further; which, frankly, as you well know, we have not been able to make a breakthrough in this area simply as migration.

Now, in a perfect world, yes, I would have wanted to see a whole set of broader agreements done. All right?

And I share with you the need to have that greater cooperation be developed. I am saying that right now, you know. What—we have the choice in a couple of weeks as a vote. What will clearly make that a reality is if NAFTA goes through. Frankly, because I think there will be a lot more—

Mr. MAZZOLI. Are you satisfied that there has been some momentum started in the meeting, that they are going to be followed through, and they are the beginning of a new era of stern enforcement on the Mexican side of the border against the syndicates which bring people illegally into our country?

Do you believe that?

Mr. HINOJOSA-OJEDA. I think that, on a whole range of issues, passing the NAFTA engages Mexico and the United States and, frankly, puts each other's activities much more linked with one another.

And if not, people can turn around and say, well, we have got no leverage; who cares what you say.

Mr. MAZZOLI. I think the opportunities, when negotiators deal, are at least possibly yielding an agreement that something could have been woven into NAFTA dealing with that type of activity on the Mexican side.

But now, not having that leverage, the future is going to be one in which we have changes of people, because now we have Mr. Salinas who seems to be committed to this idea. But you are going to have someone else after him, I think in one more year. And you may have different parties and—as you have in Canada, with the Conservative Party literally not even being a legitimate party as a result of the recent elections. Part of those election results could be ascribed to their unhappiness with the Canadian Free Trade Agreement.

I am not as satisfied, as I probably should be or as sanguine as you are, about what happens now. I would have been a lot happier

if it were in the agreement in so many words, signed, sealed, and delivered. That would have pleased me a whole lot.

In any event, that is for another day. Thank you all for your testimony and for your attention and for your patience.

The subcommittee stands adjourned.

[Whereupon, at 4:35 p.m., the subcommittee adjourned, to reconvene subject to the call of the Chair.]



A P P E N D I X E S

APPENDIX 1.—STATEMENT OF PHILIP MARTIN, PROFESSOR OF AGRICULTURAL ECONOMICS, UNIVERSITY OF CALIFORNIA AT DAVIS

I am Philip Martin, Professor of Agricultural Economics at the University of California-Davis. I have been asked to testify on the short- and long-term effects of NAFTA on Mexico-to-US migration and what the US and Mexico might do about the agreement's likely effects on migration.

As you know, NAFTA does not deal directly with the type of migration that has linked the US and Mexican labor markets for much of the past century. NAFTA negotiators hoped to convert a flow of people into a flow of goods indirectly, and both Presidents Bush and Salinas implied that, immediately after NAFTA was signed, Mexico-to-US migration would begin to decline. In the favorite example of Mexican President Salinas, NAFTA would cut the flow of Mexican workers into the United States by allowing Mexico to export more tomatoes and fewer tomato pickers.

Migration researchers on both sides of the border disagree. They expect NAFTA to produce temporarily more Mexico-to-US migration—a "migration hump."

Which is it? Will NAFTA increase or decrease the labor migration which has been the major—and often contentious—link between the United States and Mexico for most of the 20th century?

The answer is complicated because it involves people. Yes, NAFTA is the best hope to reduce unwanted immigration from Mexico. After the agreement has been in effect for a decade, immigration from Mexico should fall to less than

half the level of the past decade, when 3 million legal Mexican immigrants were recognized.

But NAFTA is linking countries whose labor markets were brought closer together over the last decade. Its effects during the 1990s are likely to increase Mexico-to-US. migration, although NAFTA will add only incrementally to current flows. Furthermore, US. and Mexican policies could make this migration hump small in size and short in duration.

Labor migration is motivated by demand-pull forces that attract migrants, supply-push factors that encourage people to move, and networks that act as pathways linking areas of origin and destination. In the case of Mexico, US. employers, with government blessing, have recruited Mexican workers off and on since World War I. There was never much concern about these workers' legal status – during the Bracero era (1942-64), even US. government publications matter-of-factly described how to “dry out wetbacks--” unauthorized Mexican workers in the United States were taken back to the Mexican border, issued a work visa, and then returned as “legal” workers.

Today there are 1 million Mexican immigrants employed in US. agriculture. Immigration reforms in the mid-1980s boomeranged: there was an explosion of fraudulent documents, and as a result it has become easier rather than harder for unauthorized Mexican workers to find US. jobs. Mexican workers are spreading so fast throughout US agriculture that the process has been described as the “Latinization” of rural America.

NAFTA will not immediately reduce this demand-pull of US. jobs. For climatic reasons, California will remain North America's salad bowl even after tariffs are eliminated. With a porous border holding down US. farm wages, there may even be a “coals to Newcastle” phenomenon at work over the next few years—California's second largest vegetable grower, for example, recently quit

producing in Mexico because it was cheaper to supply Mexico's middle class with produce from California.

Mexican immigrants have traditionally come from rural Mexico, home to one-third of Mexico's 90 million people and two-thirds of its poor people. High corn prices and a system that prevented many farmers from selling their land anchored many Mexicans to their rural homes; others came to the United States as sojourners. But this agricultural system was costly and inefficient, and so Mexico has taken steps that may reduce Mexico's rural population by 1 million annually over the next two decades. NAFTA plays a supporting role in accelerating change in rural Mexico, since it commits Mexico to reduce corn prices, currently almost twice world prices.

Reducing high corn prices and permitting farmland to be sold is likely to produce in Mexico over the 1990s what the US. experienced during the 1950s: a Great Migration. Many rural Blacks and Whites then went to Chicago and Detroit; many rural Mexicans are likely to migrate in the 1990s to Houston and Los Angeles. Decades of migration have converted what were once winding paths into freeways that link Mexican workers to US. jobs despite border controls.

Some of the Mexicans who are "heading north" might be encouraged to remain in Mexico to fill the jobs created by domestic and foreign investors attracted there by NAFTA. However, if these investors create jobs on or near the border, they may promote stepping-stone migration, as occurs when Mexican farm workers brought from southern to northern Mexico to harvest vegetables continued to migrate to the United States.

The migration hump cannot be wished away, but it can be managed so that Mexico quickly goes through a transition from a labor exporter to a labor importer. This is not as far-fetched as it sounds: southern European nations such

as Italy and Spain changed from labor exporters in the 1960s to labor importers in the 1980s, and Mexico already has thousands of Central American workers in its labor market.

The most important step necessary to accelerate Mexico's migration transition is to implement NAFTA as scheduled. Free trade and investment is the surest path to stay-at-home development.

US. and Mexican policies can also affect the migration hump. Vigorous US. enforcement of immigration, labor, and tax laws could help to reduce the US. demand-pull for Mexican workers, especially in industries such as agriculture and construction, where labor contractors—whose *raison d'être* is often their ability to evade enforcement—have become major employers. I urge you to consider targeting enforcement efforts in those industries and occupations where we know that unauthorized workers find jobs. Perhaps the US should consider adopting the German policy of requiring more secure work authorization documents in those industries in which unauthorized employment is the greatest problem. In Germany, workers in construction, janitorial services, and several other industries are required to carry a work authorization card with their photo while working. All workers employed in these industries are required to carry such cards, citizen and alien alike.

Second, the US and Mexico should cooperate to make it harder for aliens to mass at the border and await their chance for illegal entry into the United States. Aliens are breaking two laws: the Mexican law that prohibits exit except at an authorized port of exit, and US laws that prohibit entry except at ports of entry. The cooperative steps that could be taken to reduce illegal border entries range from the symbolic (Mexico erecting signs that advise that it is illegal to exit except at a port of exit and illegal to enter the US except at a port of entry, and that Mexico discourages illegal exits and entries) to the concrete (Mexico could

prohibit loitering within 100 feet of the border fence, except at authorized exit and entry points; the US and Mexico could explore the development of a joint Border Patrol).

Finally, the federal government should consider offering Migration Adjustment Assistance(MAA) to help the states and cities where immigrants congregate to absorb newcomers. The US has accepted 9 million legal immigrants since 1982, and the nature of the US tax system is that most of the taxes of especially low-wage workers flow to the federal government, while the costs such workers and their families impose on public services tend to be borne by state and local governments. Just as Trade Adjustment Assistance was the price found necessary in 1962 to move the US into the ranks of the world's free traders, so MAA may be needed in the 1990s to give newcomers the services they and their families need to succeed here

Migration has more often been a source of tension than cooperation between the United States and Mexico. NAFTA offers both countries the chance to reduce the importance of the migration issue on the bilateral agenda by permitting US capital and Mexican workers to work together in Mexico rather than in the United States.

Attached to this testimony is the press release for a recent book: Trade and Migration: NAFTA and Agriculture. Thank you for your attention.

NEWS

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INSTITUTE FOR
INTERNATIONAL
ECONOMICS

NEWS RELEASE

October 12, 1993

EMBARGO: October 12, 1993, 9:00 a.m., E.S.T.

Contact: Donna Becraft, (202) 328-9000

NAFTA WILL SUBSTANTIALLY REDUCE MEXICAN MIGRATION TO THE UNITED STATES

Washington, October 12--The North American Free Trade Agreement (NAFTA) will substantially reduce Mexican migration to the United States, according to *Trade and Migration: NAFTA and Agriculture*, a new study released by the Institute for International Economics. This decline will emerge over the next 15 to 20 years, compared to the situation without NAFTA, and will become steadily larger thereafter, as depicted in the attached Figure 9 (original text numbering). Author Philip Martin, a migration expert and agricultural economist at the University of California-Davis, concludes that NAFTA is in fact essential to check the huge ongoing flow of workers across the border.

Martin also concludes that NAFTA is likely to add marginally to Mexican migration pressures in the short run. This "hump" effect, also shown in Figure 9, can be expected because NAFTA will not immediately affect the demand for Mexican workers in the United States but will accelerate the displacement of rural Mexicans who are already linked, through a series of migration networks, to US jobs. NAFTA is also likely to stimulate job growth in northern Mexico's border areas, perhaps increasing stepping-stone migration as Mexicans move closer to the United States

in search of jobs. This incremental immigration due to NAFTA will be relatively small and limited in duration, however, and Martin warns against impeding trade liberalization in order to slow the pace of labor-displacing change in rural Mexico. Any increased migration pressure in the short run should instead be countered through a renewed US commitment to deal with illegal immigration and US-Mexican cooperation to reduce clandestine entries. In addition, to avoid an anti-immigrant and anti-NAFTA backlash, the federal government should provide Migration Adjustment Assistance to state and local governments now struggling with the costs of absorbing immigrants.

Martin stresses that the best US policy response to unwanted Mexican immigration is to implement NAFTA as scheduled. Freer trade and investment will accelerate development in Mexico and subsequently reduce migration by significant amounts.

Short-Term Migration Trends

The United States received 9 million immigrants during the past decade. One-third of them came from Mexico. Immigration will remain at a high level for the foreseeable future, most of it unrelated to NAFTA.

A migration hump is characteristic of developing-country industrialization when the country has a tradition of emigration. Mexico is such a country: as the world's largest country of emigration, bordering on the world's largest country of immigration, Mexico sent 3 million immigrants to the United States during the last decade. This was the equivalent of 20 percent of Mexico's net population growth and 28 percent of legal US immigration. Most of these Mexicans initially arrived illegally.

The base level of Mexico-to-US migration involves 200,000 to 300,000 settlers annually and 1.5 million to 2 million sojourners (temporary workers). If more Mexicans migrate to the United States because of NAFTA, it is likely to be a small addition to an already significant flow. This incremental influx is likely to consist largely of illegal entrants, most of whom will return after a short stay in the United States.

Migration Over the Long Run

Mexico-to-US migration has been on a rising trajectory. Figure 9 illustrates both the problem and the opportunity. Without NAFTA, the United States can expect indefinitely higher

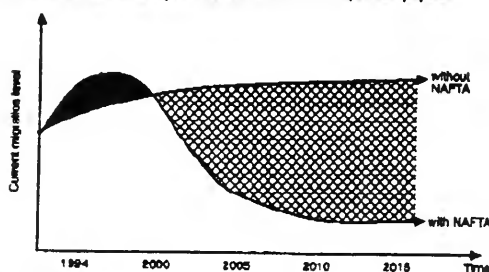
levels of Mexican immigration. With NAFTA, the United States can expect 5 to 10 years of modestly higher migration followed by a substantial decline. When considered over a horizon of 15 to 20 years and beyond, there will be considerably less Mexico-to-US migration with NAFTA than without. NAFTA should be approved to lay the foundation for economic growth and development in Mexico that will eventually reduce its migration to this country.

Migration has long been a sore point in relations between Mexico and the United States. The two countries must work separately and cooperatively on the three elements that encourage this migration--the demand pull of US jobs, the supply push of Mexican poverty, and the networks that link Mexico and the United States:

- The United States could reduce the demand pull of US jobs that encourages Mexican workers to emigrate by better enforcing, with an improved documentation system, its immigration laws that prohibit US employers from knowingly hiring unauthorized workers;
- The United States should secure Mexico's cooperation to prevent Mexicans and other aliens from massing at the US border to wait for a chance to overwhelm Border Patrol agents and slip into the United States; and
- The US government should recognize that immigration will continue at least temporarily at high levels, that many Mexican immigrants have little education, and that taxes paid by unskilled immigrant workers flow to the federal government while costs attributed to them tend to be borne by state and local governments. The federal government should thus assist state and local governments, in areas with large numbers of immigrants arriving, with new Migration Adjustment Assistance (MAA) programs.

Mexico and the United States should work on these factors while implementing NAFTA as planned. The fundamental answer to unwanted migration across the border is to diminish the "supply push" by encouraging economic growth and prosperity in Mexico, what NAFTA will provide. Freer trade and stay-at-home development can and must go hand-in-hand in North America.

Figure 9 Mexico-US migration with and without NAFTA: a qualitative projection



ABOUT THE AUTHOR

Philip L. Martin, a Visiting Fellow at the Institute, is Professor of Agricultural Economics at the University of California at Davis and a member of the Commission on Agricultural Workers established by the Immigration Reform and Control Act of 1986. He holds a Ph.D. in economics and agricultural economics from the University of Wisconsin and is the author of numerous studies and reports on immigration.

ABOUT THE INSTITUTE

The Institute for International Economics is a private nonprofit research institution for the study and discussion of international economic policy. The Institute, directed by C. Fred Bergsten, provides fresh analyses of key economic, monetary, trade, energy, and investment issues and recommends practical approaches for strengthening public policy toward these important topics. The Institute receives its funding from a large number of private foundations and corporations.

TRADE AND MIGRATION: NAFTA And Agriculture

Philip L. Martin

October 1993 Tables. Figures.

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LA TIMES November 2, 1993

PERSPECTIVE ON NAFTA

Take the Long View of Immigration



Supply and demand in low-wage fields will keep numbers high for a while, but they will diminish faster with U.S. action to bridge the gap.

by WAYNE A. CORNELIUS
and PHILIP L. MARTIN

Even as the House of Representatives voted \$45 million to hire 600 new Border Patrol agents, and as politicians of both parties clamored for harsher measures to reduce illegal immigration along our border with Mexico, the one proposal that could make a real dent in unauthorized migration was languishing in Congress.

As A.G., Gen. Janet Reno bluntly put it, "NAFTA is our best hope for reducing illegal migration in the long haul. If it fails, effective immigration control will become impossible."

Most immigration specialists on both sides of the border concur. But they also expect NAFTA to produce a temporary increase in Mexico-to-U.S. migration—a "migration hump." Herein lies much of the continuing confusion over the probable impact of North American free trade on labor migration.

Advocates of NAFTA vigorously assert that the agreement will cut the flow of Mexican workers into the United States. Opponents just as fervently criticize NAFTA as a probable stimulus to illegal immigration. Both sides are correct, within their respective time frames: but it is only the supporters of NAFTA who are willing to take the long view.

After the agreement has been in effect for a decade, immigration from Mexico should fall to less than half the level of the 1980s, and the decline should become steadily larger thereafter.

But NAFTA would link countries whose labor markets are already closely integrated, through ever-expanding family and employer networks. Generations of migration have converted what were once winding paths into freeways that link Mexican workers to U.S. jobs,

despite tighter border controls.

Some of the Mexicans who would otherwise head north might be encouraged to remain in Mexico to fill jobs created by the higher levels of domestic and foreign investment attracted by NAFTA. But it will not immediately reduce the pull of "low-wage" U.S. jobs, which at least initially will continue to pay more than even skilled employment in Mexico.

Moreover, most of the first wave of NAFTA-induced job creation in Mexico will bypass the principal sources of U.S.-bound migrations: backward rural areas in central and southern Mexico that have no attraction to investors.

For climatic reasons, California will remain North America's salad bowl even after agricultural tariffs are eliminated, ensuring jobs for Mexican workers who get here. And in rural Mexico, NAFTA will accelerate transformations already under way, caused by recent free-market reforms of the land tenure and crop subsidy systems, that may intensify incentives for emigration. The agreement commits Mexico to reducing guaranteed prices for corn, currently almost twice world levels.

The migration hump cannot be wished away, but U.S. and Mexican policies could make it small in size and short in duration.

On the U.S. side, more vigorous enforcement of immigration, labor and tax laws could help to reduce the demand for Mexican workers, especially in agriculture and construction, where labor contractors—whose *raison d'être* is their ability to evade enforcement—have be-

come major employers of unauthorized migrants.

Whatever the fate of NAFTA, the 1990s are destined to be years of high Mexico-to-U.S. migration, dampened only by the length and depth of the recession in key receiving states like California. Thus, even in the short term, NAFTA is likely to add only marginally to current migration flows. The labor-displacing changes associated with Mexico's ongoing free-market revolution will happen anyway.

Something must be done to begin the process of narrowing U.S./Mexico wage and living-standard differentials, if unwanted migration between the two countries is ever to be curtailed. The implementation of NAFTA as scheduled is the most important step needed to initiate this process.

The real question is whether Congress can summon the political will and vision to do what is necessary to turn the existing trend around. Labor migration has more often been a source of tension than cooperation between the United States and Mexico. NAFTA offers both countries the chance to deal constructively with the immigration issue, by permitting U.S. capital and Mexican labor to work together in Mexico instead of in the United States.

Wayne A. Cornelius is director of the Center for U.S.-Mexican Studies at UC San Diego. Philip L. Martin is professor of agricultural economics at UC Davis and the author of "Trade and Migration: NAFTA and Agriculture," published by the Institute for International Economics.



"I'm not against free trade; I got a great deal on this wall from the Germans."

CHAP. 101, News Research Journal

APPENDIX 2.—CORRESPONDENCE FROM DORIS MEISSNER, COMMISSIONER, IMMIGRATION AND NATURALIZATION SERVICE, TO HON. ROMANO L. MAZZOLI, NOVEMBER 4, 1993



U.S. Department of Justice

Immigration and Naturalization Service

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IMMIGRATION

Office of the Commissioner

425 Eye Street N.W.
Washington, D.C. 20536

CO 703.785

NOV - 4 1993

The Honorable Romano L. Mazzoli
Chairman, Subcommittee on International
Law, Immigration and Refugees
Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Mazzoli:

I appreciated the opportunity at yesterday's hearing on the North American Free Trade Agreement (NAFTA) to discuss your concern about the cooperation of the Government of Mexico in pursuing and prosecuting "coyotes" and criminal syndicates involved in the smuggling of aliens into the United States.

To amplify what I said yesterday about the Mexican commitment in this area, I am enclosing the joint communique released at the conclusion of Wednesday's bi-national meeting. You will note that "the delegations agreed to continue and intensify joint efforts to combat organized criminal trafficking in nationals of their own as well as third countries." I want to emphasize again that I see a greater commitment and capability on the part of Mexico to work effectively with us in criminal law enforcement matters than I have ever experienced. I believe this will steadily improve under NAFTA.

I would welcome a further opportunity to meet with you on this matter, or any others concerning NAFTA and immigration.

Sincerely,

Doris Meissner
Commissioner

Enclosure

**PRESS STATEMENT
FOR ISSUANCE FOLLOWING THE MEETING OF THE
WORKING GROUP ON MIGRATION AND CONSULAR AFFAIRS
U.S. - MEXICO BINATIONAL COMMISSION**

November 3, 1993
Washington, D.C.

A meeting of the working group on migration and consular affairs of the U.S. - Mexico Binational Commission took place in Washington, D.C. on November 3, 1993. The U.S. delegation was jointly chaired by Assistant Secretary Mary A. Ryan of the U.S. Department of State and Commissioner Doris Meissner of the U.S. Immigration and Naturalization Service. The Mexican delegation was jointly chaired by Deputy Foreign Minister, Andres Rozental, Jorge Montaño, Mexican Ambassador to the United States, and Dr. Manuel Villa Aguilera, Commissioner of the National Institute of Migration.

This meeting took place in the context of an agreement by both governments to jointly address the complex issues that arise out of migratory flows between Mexico and the United States and, increasingly, worldwide. The U.S. delegation expressed special recognition of the contribution made by citizens, residents and visitors of Mexican origin to the richness and diversity of American culture.

It was clearly recognized that each country has the sovereign right to apply and enforce its domestic legislation on immigration within its territory. At the same time, the two delegations agreed that the bilateral nature of the migration phenomenon calls for full utilization of existing mechanisms in order to improve cooperation and consultation in this area.

Given the recent experiences with "Operation Blockade", both governments agreed that it is necessary to ensure that local operational decisions at the border be viewed in the full context of the bilateral relationship. The U.S. side regretted the name given to this operation. This enhanced enforcement effort was undertaken in the context of increased personnel resources which the Border Patrol will assign to preventing illegal border crossings. The U.S. side acknowledged a need for prior consultation and dialogue with the Mexican government authorities in this area.

The Mexican delegation expressed its concern about sudden implementation of other U.S. enforcement measures, including the construction of new physical obstacles, without uniform prior consultation. The Mexican delegation also expressed its concern about the increased presence of military personnel in activities supporting border control.

The U.S. delegation reiterated the United States commitment to enforce its immigration laws humanely. Both delegations reiterated their dedication to the protection of their nationals and to full respect for the human rights of those involved. The Immigration and Naturalization Service advised that it is developing a mechanism for review of alleged human rights abuses that will be announced soon. At the same time, the U.S. delegation made clear that the objective of U.S. Immigration and Naturalization Service policy is to regulate immigration; USINS facilitates legal immigration and deters illegal immigration.

The two delegations agreed to continue and intensify joint efforts to combat organized criminal trafficking in nationals of their own as well as third countries, to share information on such illegal activities, and to undertake regional and global efforts with a view to a broader solution this problem. The delegations noted the cooperation of their governments in drafting a UNGA resolution aimed at preventing alien smuggling.

The two delegations considered other cooperative approaches which their governments might undertake to deal with the migration phenomenon. One of these was to establish a special working group to study a possible pilot program to further facilitate the issuance of border crossing cards to those Mexican citizens who are permanent border residents and are deemed to qualify. The governments also agreed on the need to further study the quantitative and qualitative aspects of the migration phenomenon, with the participation of experts, academic institutions and government officials.

The Commissioner of the Mexican National Institute of Migration briefed the group on the mandate and objectives of this new institution and described the possibility that Grupo Beta-type mechanisms might be established in other cities along the border to provide enhanced protection and combat criminality. The U.S. delegation welcomed this presentation.

The two delegations recognized that, in the long run, economic development is the only true solution to the problem of unauthorized migration. The delegations stressed the importance of the North American Free Trade Agreement (NAFTA) to future economic development in Mexico and the United States. They agreed that NAFTA is a once-in-a-generation opportunity to contribute to Mexico's capacity to absorb its growing labor force.

Both delegations expressed satisfaction with the very positive dialogue that took place on this occasion, and agreed to meet again in January in a Mexican city on the border to review progress on these issues and other matters of bilateral concern in this area.

APPENDIX 3.—MEMORANDUM FROM BORDER RIGHTS COALITION TO HON. ROMANO L. MAZZOLI, OCTOBER 29, 1993

BORDER RIGHTS COALITION

Coalición para Derechos Fronterizos

1117 N. Stanton St. El Paso, Texas 79902 office (915) 532-3975 fax (915) 532-4071

A Community-Based Advocacy Group

Victims Against Law Officer Repression (VALOR), El Paso Chapter
Diocesan Migrant and Refugee Services
Las Americas Refugee Asylum Project
Bowie High School Chapter, MDCNA
La Muger Obrera

Unión de Trabajadores Agrícolas Fronterizos (UTAF)
American Civil Liberties Union, El Paso Chapter
Latino(a) Leadership Opportunity Program
National Lawyers Guild, El Paso Chapter
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Operating a 24-Hr Hotline To Report Abuses by Immigration Law Enforcement Agents
"OJO-MIGRA" HOTLINE: (915) 533-4346

MEMORANDUM

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MIGRATION

TO: Honorable Romano Mazzoli
Chair, Subcommittee on International
Law, Immigration and Refugees
B-370-B Rayburn House Office Bldg.
Washington, D.C. 20515

DATE: October 29, 1993

FROM: Suzan Kern
Coordinator, Border Rights Coalition
1117 N. Stanton St.
El Paso, Texas 79902

Suzan Kern

RE: Written testimony for public hearing regarding Immigration and NAFTA on Wednesday, November 3, 1993

Mr. Gordon Davis served in the Texas House of Representatives from 1940 through 1949. He is currently retired.

About a month after the El Paso Border Patrol instituted its "Operation Blockade," Mr. Davis approached me by telephone with the proposal outlined in the attached letter. He told me he had become increasingly upset over the tensions that have been engendered by Operation Blockade, particularly in relation to those workers we in El Paso and other border towns traditionally have invited into our homes, businesses and families to provide needed services for us.

I encouraged Mr. Davis to provide written testimony to your subcommittee for its deliberations on Immigration and NAFTA, and he kindly agreed to do so.

The El Paso Border Rights Coalition goes on record as supporting Mr. Davis's idea. We believe it contains the germ of a workable and compassionate plan that will address many border concerns, and that it deserves serious consideration and investment.

October 29, 1993

Honorable Romano Mazzoli
Chair, Subcommittee on International
Law, Immigration and Refugees
B-370-B Rayburn House Office Bldg.
Washington, D.C. 20515

**Re: Written testimony for public hearing regarding Immigration and
NAFTA on Wednesday, November 3, 1993**

Dear Congressman Mazzoli:

As you may know, there has been quite a bit of ill feeling and confusion in El Paso, Texas, regarding the Border Patrol's "Operation Blockade," the twenty-mile wall of Border Patrol agents on our border. Looking beyond the ill feeling and confusion, however, it is clear that people on our side are hurting because they are being deprived of services provided by Mexican immigrants, and the good honest workers across the river are suffering, also.

It is true that our federal and state laws must and will be enforced. However, when enforcement of the law creates bad relations with Mexico, as is happening now because of "Operation Blockade," it is time we face our responsibility to be a good neighbor and try to solve the dilemma that people on both sides of the river are facing. We need the services that Mexican workers provide and they desperately need to be able to feed their children and families.

I would like to propose that Congress create a new program that might be called, "Who Is My Neighbor?" or "Compassion in Action." The program's purpose would be to legalize a class of people that Roman Catholic Bishop Raymundo Peña of El Paso has called "day immigrants": Mexican workers who for generations have worked in El Paso and other U.S. border towns. It would be only for workers who reside in towns just across the river in Mexico, from one end of the border to the other, and it would create a new "Worker's Crossing Card" for these people. The card would be a different color than existing crossing cards and would bear the worker's picture. The picture and distinctive color would be recognizable immediately by border workers and immigration enforcement officials on the U.S. side. This would eliminate unnecessary delay and embarrassment to Mexicans crossing the border to work in the U.S. on a daily basis.

A new Worker's Crossing Card with the worker's picture on it can provide the answer for millions of workers along the border, from the tip of Texas to California. It certainly can cut down on the cost of catching these workers over and over again and returning them to Mexico. These workers should not be allowed to be delayed or hurt; they need to be helped instead! These are good hard-

working people who are actually an asset to the people of the United States. They are not troublemakers and should not be classed among the thieves, beggars and others who slip across our border to make trouble. They should not be identified with wrongdoing or allowed to suffer for such, any more than you or I should be classed with and suffer because of being identified with undesirables on our side of the border.

I am not proposing that the "Who Is My Neighbor?" program will stop all illegal immigration. What I am saying is this: Let's make it legal, quick and easy for our neighbors across the river to come help us, while providing for their own families! The way things are now as a result of Operation Blockade, I am reminded of the saying, "Don't throw out the baby with the bath water."

I know my proposal involves a great deal of work, but I believe we already have the resources to find those workers. With the help of El Paso residents such as Suzan Kern and Debbie Nathan (Border Rights Coalition), Joe Old (Unite El Paso), and Tanny Berg (South El Paso Revitalization Association) and the networks they are a part of all along the border, I believe we could find thousands of people who would volunteer to do the necessary leg work. This corps of volunteers could take the proper documents and applications directly to workers in Mexico, help them fill out the forms, and take their pictures to go on the Worker's Crossing Card. The workers then would simply pick up their cards from a central distribution point and be ready to go to work.

Congressman Mazzoli, with your ability and influence in Washington, I believe we can count on you to bring about a new Worker's Crossing Card and create a new era of good will with Mexico, repairing the ill feelings that the Operation Blockade has generated. Thank you for your attention to my proposal, and that of your fellow subcommittee members. Please do not hesitate to contact me if I can provide any further information for you.

Respectfully submitted,



Gordon R. Davis
8729 Orion Place
El Paso, Texas 79904
(915) 755-9619

cc: Commissioner Doris Meissner
Immigration and Naturalization Service
425 "I" St. N.W.
Washington, D.C. 20536

Attorney General Janet Reno
Attention: Ms. Phyllis Coven
U.S. Department of Justice
10th St. and Constitution Ave. N.W.
Washington, D.C. 20530

APPENDIX 4.—CORRESPONDENCE FROM MARIA JIMENEZ, DIRECTOR,
IMMIGRATION LAW ENFORCEMENT MONITORING PROJECT, TO HON.
ROMANO L. MAZZOLI



AMERICAN FRIENDS SERVICE COMMITTEE
IMMIGRATION LAW ENFORCEMENT MONITORING PROJECT
(ILEMP)

Address: YMCA, 3515 Allen Parkway, Houston, TX 77019, (713) 524-5428, Fax: (713) 524-8183

Honorable Romano Mazzoli
US House of Representatives
Subcommittee on International Law
Immigration and Refugees
B-370-B Rayburn House Office Building
Washington, DC 20515

Dear Representative:

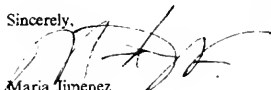
We request that the following articles be included as written testimony and be made part of the public record of the Subcommittee's hearing of November 3, on the North American Free Trade Agreement and Immigration. These are:

1. "Labor Mobility and the North American Free Trade Agreement" by Maria Jimenez. Excerpt from testimony at public hearing held on August 26, 1991 in Houston Texas, before the Office of the United States Trade Representative.
2. "Free Trade and the Human Rights of Immigrant Workers" by Peter Schey, Esq. Executive Director of the Center for Human Rights and Constitutional Law, February of 1992.

It is our belief that the cross-border movements of persons in all three countries require expanding the legal framework of our immigration laws to allow for increased legalized migration. In our view, a free trade pact that does not include a flexible legal immigration framework, such as that adopted by the European Economic Community, effectively freezes wages with national boundaries and guarantees continuing large wage differentials between the two countries. Therefore, we strongly feel that a strategy for dismantling legal barriers to the mobility of labor should be tightly linked to harmonizing wage differentials and to providing for the promotion and protection of all human rights on an equitable basis between the three countries.

Thank you for your attention to this matter.

Sincerely,


Maria Jimenez
Director

Labor Mobility and the North American Free Trade Agreement

by Maria Jimenez

Editor's Note: The following article is adapted from Ms. Jimenez' testimony at a public hearing held on August 26, 1991 in Houston, Texas, before the Office of the United States Trade Representative.

Introduction

The North American Free Trade Agreement (NAFTA) has dramatic implications for setting patterns of new relationships among the peoples of three nations, the United States, Mexico, and Canada, and for defining our collective future. These countries share a mutual interest in bringing greater economic security to investment, to the exchange of commodities, and to access to markets through permanent, binding, international legal agreements. Nevertheless, reducing the scope of issues to be negotiated to investment, commerce and production, while removing topics of social concern, shapes a process for economic integration that reflects skewed power relationships between countries and between social classes. Benefits will accrue to only a few and the worst dislocation will be suffered by the poor and working people in the three countries. Although the accord is framed in terms of deregulation, with social, labor and environmental guidelines it could provide the format for regulating the inevitable process of economic integration that already is occurring between the three countries without a free trade agreement.

Labor Mobility as an Issue for Negotiation

NAFTA will leave intact the most significant economic, social and human exchange between Mexico and the United States: the migration of Mexican labor across the United States/Mexico boundary. A free trade pact that does not expand to include a flexible immigration framework, such as that adopted by the European Economic Community, effectively freezes wages within national boundaries and guarantees continuing large wage differentials between the two countries.¹ Unless international legal

barriers to the movement of labor are dismantled, Mexico will be reduced to the status of a permanent supplier of low-cost labor to an otherwise dynamic North American market. Such a situation will increase the rate and intensity of economic exploitation of workers on both sides of the border by maintaining the availability of an undocumented labor force that is highly exploitable and by insuring that runaway shops in Mexico continue to diminish the integrity of the work forces in the United States and Canada.

Including labor mobility as an issue in trade agreements is not a novel concept. The Generalized System of Preferences, which sets international tariffs, established a precedent for incorporating labor concerns and guarantees in United States trade policy.² The 1988 Omnibus Trade Act declared that a main negotiating objective of the United States is "to adopt as [a] principal of GATT [the General Agreement on Tariffs and Trade] that the denial of workers rights should not be [a] means for a country or its industries to gain competitive advantage in international trade."³ In the Uruguay Round of GATT talks the Mexican government stated that: "The expansion of the service exports of developing countries and their increased participation in the world trade services depends on the liberalization of cross border movement of personnel covering unskilled, semiskilled and skilled labor. . . [E]ffective access to markets for their service exports can mainly be realized through this mode of delivery."⁴

The free trade agreement between Canada and the United States, which went into effect on January 1, 1989, significantly expanded the temporary entry of service providers.⁵ Concerning the current negotiations, the Business Roundtable stated that a preliminary objective should be the temporary entry of business persons⁶ and the California State World Trade Commission stated that "California growers seek the continued availability of farm labor from Mexico, whether through FTA negotiations or other legislative vehicles."⁷ A year ago, the Mexican government requested that a labor component addressing "the orderly flow of Mexican workers" be added to the talks;⁸ it dropped this request only after the United States government refused to place it on the agenda for negotiations.

The exclusion of the mobility of Mexican workers from the negotiating table makes sense not as an economic consideration but as a political calculation; it is an effective way to neutralize sectors within the United States that tradi-

Maria Jimenez is Director of the American Friends Service Committee's Immigration Law Enforcement Monitoring Project and a member of the National Immigration Project Steering Committee. ILEMP has documented human rights violations of persons crossing the United States/Mexico border for over four years and has brought its findings before committees of both the United States and Mexican Congresses.

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tionally have sought to restrict immigration. It ignores, however, the economic conditions in both the United States and Mexico that will continue to establish Mexican workers as a permanent part of the labor force in the United States. It also ignores the important role that Mexican labor historically has played in the economic development of both the United States and Mexico. Most importantly, it ignores the restructuring of a world economy that will continue to require a supply of low-wage workers traditionally provided by international labor migrants.

The History of Mexican-Origin Workers in the United States

Historically Mexican labor has been an integral part of the economic development of the United States. In the early part of the twentieth century the rapid pace of industrialization gave impetus to the development of agriculture in the Southwest and of transportation systems throughout the country, especially the railroads. This contributed to the initiation of streams of labor flows from Mexico. Between 1900 and 1930 at least one-tenth of Mexico's population moved "north from Mexico" in response to the expanding United States economy.⁸ By 1930, 47% of the Mexican-origin population lived in urban areas in the United States;⁹ by 1990, 87% of the Mexican-origin population lived in cities.¹⁰ The occupational distribution of the Mexican-origin labor force followed this geographic shift. In 1930, 44.9% of the Mexican-origin population worked in agricultural fields;¹¹ by 1990, only 8.1% were farmworkers.¹² In 1930, 55.1% of the Mexican-origin population was employed in manufacturing or service sectors;¹³ by 1990, this number had risen to 91.9%.¹⁴

In the last twenty years the migration of Mexican labor has increased rapidly. According to the Census Bureau, the Mexican-ancestry population in the United States quintupled between 1970 and 1988.¹⁵ Nearly 45% of the increase resulted from immigration; the remainder came from natural growth.¹⁶ Since 1976 the number of Mexican legal immigrants has stabilized at a yearly average of about 66,000.¹⁷ At the same time the number and proportion of undocumented migrants from Mexico accelerated sharply. By 1980, approximately 55% of the total of undocumented immigrants were from Mexico¹⁸ and accounted for two-thirds of all Mexican immigration.¹⁹ Apprehensions of undocumented entrants along the US-Mexico border increased from 854,000 in 1989 to 1.04 million in 1990; approximately 90% of those arrested were Mexican nationals.²⁰ Early census data indicate that, by 1990, the Mexican-origin population in the United States was approximately 13.5 million.²¹

Economic Background

The fundamental dynamic driving migratory flows from Mexico to the United States is the tremendous difference in economic opportunity.²² In 1989, gross national product per capita in Mexico was \$2,165 compared with \$21,082 in the United States; Mexico's unemployment rate was 20% compared to 5.2% in the United States; Mexico's hourly wage in manufacturing was \$1.99 (\$5.98 for "maquiladora"²³ workers), compared to \$13.85 in the United States.²⁴

Mexico's population more than tripled between 1940 and 1980, from 20 million to 67 million people.²⁵ During the last decade an additional 21 million brought the total to 88 million.²⁶ Such growth in population produces equally rapid growth in the labor force. One million persons now enter Mexico's labor market each year.²⁷ In contrast, two million new workers seek jobs every year in the United States, which has three times Mexico's population.²⁸ Even in the most wildly optimistic scenario for free trade in the next five years, the Mexican gross domestic product will double, at best, and is more likely to approximate 15% of that of the United States.²⁹

Both highly dynamic and declining sectors of the United States economy will continue to generate low-wage jobs. Employment in lower-paying service jobs has been rising rapidly as a percentage of total employment in the United States: 28% in 1950, 32% in 1960, 39% in 1970, 43% in 1980, and 49% in 1986.³⁰ Informalization now characterizes a large array of economic activities (e.g., sweatshops and industrial homework), as is evident in the electronics, textile and garment industries in New York City and Los Angeles. These general trends shaping the job supply accelerated the influx of foreign labor to the United States over the last decade; international labor migrants have emerged as an important source of the labor supply for labor markets in this country. In addition, the labor force in the United States is growing older.³¹ In the next twenty years immigrant labor will be essential to a dynamic rhythm of economic growth in the United States.

Paradoxically, foreign investment and promotion of export-oriented growth, the very measures commonly proffered to deter immigration from developing countries, seem to have had precisely the opposite effect in Mexico. For instance, in the mid-60's the Border Industrialization Program promised to reduce immigration from Mexico by strengthening Mexico's economic development and by providing jobs to "braceros"³² in Mexico.³³ Even with the consequent growth in the maquiladora corridor, however, no measurable decrease in undocumented migration may be attributed to this economic program; the large majority of assembly jobs it created were filled by a female workforce.³⁴

Thus, history and economics do not provide an optimistic forecast for a decline in undocumented immigration

to the United States as the result of NAFTA. To the contrary, the restructuring of the United States economy points to ever increasing levels of international migratory flows.

Conditions for the Mexican-Origin Population in the United States

Given its size, history, and role in the economy, the Mexican-origin population in the United States no longer can be characterized as a temporary population migration. The common characterization of Mexican immigrants as temporary workers who stay here for a short period of time and leave their families behind is no longer true. The 1980 Census indicated that two-thirds of Mexican immigrants in the United States lived with immediate family members.²⁷ Most newly legalized Mexican immigrants have resided in the United States for ten years or more; four-fifths live with their spouses in the United States.²⁸

Moreover, despite prevalent myths, Mexican immigrants do not take jobs away from native-workers. According to research by the RAND Corporation Program for Immigration Policy, "[t]he general consensus [of many investigators] is that immigrants in the United States (legal and undocumented) have little effect on earnings and employment opportunities of native-born peoples...."²⁹ In addition, although some studies indicate that immigrants increase competitiveness with those of similar skills, others indicate that the role of immigrants has been to fill jobs at the low level of the labor market while permitting legal United States residents and citizens to move up the employment ladder to higher paying jobs.³⁰ Census data in 1990 indicate that Mexican males have a higher labor force participation, 81.2%, than does the total US population, 74.6%.³¹ In general, most studies show that the immigrant workforce benefits the economy and has favorable net effect on overall economic development.³²

Despite the history of Mexican labor in the United States and its current role in the process of regional economic restructuring, the Mexican-origin population long has been subjected to racism, prejudice and violence by the larger society. Viewed as a "foreign" labor force, it is easily expendable in times of economic downturns. This is particularly true of the undocumented Mexican immigrant; anti-immigrant and anti-Mexican social attitudes trigger INS enforcement crackdowns when migratory flows coincide with economic downturns. Examples include the repatriation of Mexican workers during the Depression of 1930,³³ Operation Wetback in the 1950's³⁴ and Operation Jobs in the 1970's.³⁵

In times of economic dislocation, society also blames its social and economic problems on Mexican immigrants. Such anti-immigrant and anti-Mexican sentiment culminated in the passage of the Immigration Reform and Control Act of 1986 (IRCA).³⁶ Although IRCA provided for the

legalization of at least 2.3 million Mexican immigrants,³⁷ its employer sanctions provisions effectively denied to the two-thirds of Mexican immigrants in the United States who are undocumented the internationally recognized essential human right: the right to work.³⁸ Moreover, a 1989 General Accounting Office report showed high incidents of discrimination against documented immigrants, particularly against Hispanic and Asian workers.³⁹ According to a study by the National Council of La Raza, this discrimination and prejudice has deprived the overall Hispanic community of at least 11 billion dollars a year in earnings.⁴⁰ Thus, while not deterring undocumented immigration,⁴¹ the employer sanctions provisions of IRCA increased the economic hardships of the Mexican-origin population in the United States by increasing unemployment and by encouraging discriminatory hiring practices. In addition, by lowering wages and working conditions generally, IRCA has diminished the living standards of all workers in the United States.

Conclusion

The politics of racism and prejudice, reflected in the characterization of Mexican labor by all parties participating in the free trade debate, keep off the negotiating table the issue of broadening the legal participation of the Mexican labor force in United States labor markets. The Mexican labor force again has become an expendable component in political considerations despite its vital importance to economic development. Those who advocate excluding labor mobility from discussions of economic integration on a continental basis reveal their acceptance of the differential treatment and regulation of international Mexican migrants, of the inequitable incorporation of migratory labor flows on a continental basis, and of the persisting socio-economic subordination of the Mexican-origin population in the United States. From the international human rights standpoint, including as a topic of negotiation such selected segments of international labor migration as executives and Canadians, while excluding Mexican workers, transgresses international norms that guarantee the exercise and protection of human rights and fundamental liberties without distinction as to race, sex, language, religion or national origin.⁴²

The United States bears a responsibility for the existence of labor migration streams that shape its economic relationship to Mexico and to its Mexican-origin population. Thus, we propose the formation of a negotiating group in the NAFTA negotiations that would focus on labor issues, including worker rights, labor standards, and labor mobility. This group should develop a strategy for dismantling legal barriers to the mobility of labor which is tightly linked to harmonizing wage differentials and to providing for the promotion, protection and defense of all human rights on an

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equitable basis. It should fashion a corresponding legal framework that expands legalized border migration and, thus, provides a long-term check on wage scales that exploit the working people of all three countries. The employer sanctions provision of IRCA should be the first non-tariff barrier to trade targeted for removal.

Broadening the scope of issues in trade negotiations will insure that NAFTA's promise of prosperity will not be restricted to a few but, instead, will erect a framework for true development alternatives. The crossing of borders in search of access to labor markets in the United States must be an essential part of regional social-economic integration. As this process unfolds, those who work for immigrants' and workers' rights must ensure that closer economic integration between Mexico, the United States and Canada leads to stronger cross-border political alliances among the people of these countries paralleling the new cooperation between our governments.

NOTES

1. Orme, *The Sunbelt Moves South*, N.A.M. Cong. on Latin Am. (NACLA) Rep. on Am., May 1991, at 18.
2. *Id.* at 15-16.
3. The General Agreement on Tariffs and Trade (GATT) is the world body that oversees international commerce.
4. Letter from Members and Friends of Mobilization on Development, Trade, Labor, and the Environment (MOD-TLE) to Carla Hills, United States Trade Representative (July 8, 1991) (available from the Immigration Law Enforcement Monitoring Project [hereinafter "ILEMP"]).
5. Testimony of Thomas R. Donahue, Secretary-Treasurer of AFL-CIO before the Committee on Ways and Means, Subcommittee on Trade, United States House of Representatives 14 (February 21, 1991) (available from ILEMP).
6. Chapter 15, Annex 1502.1, Schedules 1 & 2. See 66 Int. Rel. 29-30 (1989).
7. The Business Roundtable, Building a Comprehensive U.S.-Mexico Economic Relationship: Preliminary Negotiating Objectives of the Business Roundtable v (June 1991) (available from the National Immigration Project).
8. California State World Trade Commission, California and the U.S.-Mexico Trade Negotiation — Issues for Consideration 7 (Jan. 31, 1991) (report submitted to United States Trade Representative Carla Hills) (available from the National Immigration Project).
9. *Mexican Labor Won't Be Part of the Trade Pact*, Houston Post, June 24, 1990.
10. R. Acuna, *Occupied America: A History of Chicanos* (3d ed., 1988).

11. *Id.*
12. National Council of la Raza, *The Hispanic Population: 1990, a Chartbook "Snapshot"* (July 1991) (available from ILEMP).
13. Acuna, *supra* note 10.
14. National Council of la Raza, *Diversity in the Workplace: Barriers and Opportunities from a Hispanic Perspective* (July 1991) (available from ILEMP).
15. Acuna, *supra* note 10.
16. National Council of la Raza, *supra* note 14.
17. Vernez & Ronfeldt, *The Current Situation in Mexican Immigration*, 251 Science 1189, 1990 (1991).
18. *Id.*
19. *Id.* at 1189.
20. Warren & Passel, 24 *Demography* 375 (1987).
21. Vernez & Ronfeldt, *supra* note 17 at 1189.
22. National Council of la Raza, *Unfinished Business: The Immigration Reform and Control Act of 1986 19-23* (December 1990) (available from ILEMP).
23. United States Immigration & Naturalization Service, *Provisional Application Statistics* (August 1990).
24. National Council of la Raza, *supra* note 12. The economic contrast does not, alone, explain the number of Mexican immigrants in the United States. The long border between Mexico and the United States provides an opportunity for Mexico that does not exist for other developing countries. In addition, over the course of a century, migratory flows created family and community networks that connect Mexicans to relatives and friends in the United States and that provide communication channels facilitating migration. See, e.g., D. Massey, R. Alarcon, J. Durand & H. Gonzales, *Return to Aztlan: The Social Process of International Migration from Western Mexico* (1987).
25. Mexico's maquiladora program allows United States manufacturing plants located in Mexico near the border to import goods duty-free and to assemble and re-export them. They are subject to tariffs, labor law requirements and occupational safety and health standards that are lower than those that apply elsewhere in Mexico.
26. Nalven, *Free Trade Pact Will Not Slow Illegal Immigration*, San Diego Trib., June 18, 1991.
27. Commission for the Study of International Migration and Cooperative Economic Development, *Unauthorized Migration: An Economic Developmental Response*, 11-12 (July 1990) (available from ILEMP).
28. *Id.*
29. *Id.*
30. *Id.*
31. Nalven, *supra* note 26.
32. American Friends Service Committee, *The Global Factory: An Organizing Guide for a New Economic Era* (March 1989) (available from ILEMP).
33. Fullerton, *Labor Force Projections: 1986 - 2,000*, 110

Monthly Labor Review 19-21 (1987).

34. The "bracero" program, which began under an international agreement between the United States and Mexico in 1942, allowed the United States to recruit temporary migrant workers for the agricultural industry. Congress terminated the program in 1964.

35. Nalven, *supra* note 26.

36. *Id.*

37. G. Borjas, Friends or Strangers: The Impact of Immigrants on the U. S. Economy 187 (1990).

38. Vernez & Ronfeldt, *supra* note 17 at n. 18.

39. *Id.* at 1192.

40. Vernez & McCarthy, Meeting the Economy's Labor Needs Through Immigration: Rationale and Challenges 35 - 37 (1990) (report by the RAND Corporation to the Ford Foundation); United States General Accounting Office, Illegal Aliens: Influence of Illegal Workers on Wages and Working Conditions of Legal Workers 42 (1988) (comparison of fourteen studies).

41. National Council de la Raza, *supra* note 14.

42. Commission for the Study of International Migration and Cooperative Economic Development, *supra* note 27; United States Department of Labor, The Effects of Immigration on the U. S. Economy and Labor Market (1989). Mexican immigrants also contribute to the economic development of Mexico. Mexican migrant remittances are a source of foreign exchange in Mexico rivaling that of tourism. Remittances play an important macroeconomic role by revitalizing aggregate demand, by establishing and encouraging the growth of small businesses, and by expanding the social and economic infrastructure in numerous communities in Mexico. Securing broader legal employment opportunities to Mexican citizens working in the United States would guarantee a stronger stream of remittances which, in turn, would strengthen the overall purchasing power of consumers and improve the living standards of otherwise poverty-stricken households.

43. L. Grebler, J. Moore, & R. Guzman, The Mexican American People 523-26 (1970).

44. *Id.* at 521-22.

45. National Immigration Project, Immigration Law and Defense 2-10, 2-11, 2-23 (1991).

46. Immigration Reform and Control Act, Pub.L. No. 99-603, 100 Stat. 3359 (1986).

47. INS Provisional Application Statistics, *supra* note 23.

48. Universal Declaration of Human Rights, Art. 23, G.A. Res. 217A, U.N.Doc. A/810 at 71 (1948); International Covenant on Economic, Social and Cultural Rights, Part III, Art. 6, G.A. Res. 2200, 21 U.N. GAOR Supp. (No. 16), U.N. Doc. A/6316 at 490 (1967).

49. United States General Accounting Office, Immigration Reform: Employer Sanctions and the Question of Discrimination (March 1990).

50. National Council de la Raza, The Empty Promise: Civil Rights Enforcement and Hispanics, Summary Report (July 1991).

51. Cornelius & Bustamante, Mexican Migration to the United States: Process, Consequences and Policy Options 14 (1989) cited in Holguin & Schey, Employer Sanctions: The Volstead Act Revisited 8 (1990) (study by the Center for Human Rights and Constitutional Law, available from the National Immigration Project).

52. Universal Declaration, *supra* note 48 at Art. 2; International Covenant on Civil and Political Rights, Part I, Art. 1, G.A. Res. 2200, 21 U.N. GAOR Supp. (No. 16), U.N. Doc. A/6316 at 52 (1967).

Policy Issue Report

FREE TRADE AND THE HUMAN RIGHTS OF MIGRANT WORKERS

by Peter A. Schey, Esq., Executive Director,
Center for Human Rights and Constitutional Law

Introduction

The current debate over North American free trade agreements has focused almost exclusively on the international shipment of capital and goods. The movement of workers to contiguous countries and the rights that they should possess there have been largely ignored. This article explores these issues, and explains why they must be an essential focus of the free trade debate.

"Free Trade" ...Continued from page 1

A free-trade agreement will likely increase the international migration of workers

It is inevitable that as the international movement of capital, goods and services increases between Canada, the United States and Mexico, so too will the movement of workers. The eight to one U.S.-Mexico wage gap will remain relatively constant during the next decade. As Mexico diversifies its agricultural sector, with plans to reduce total acreage devoted to corn by about one-third in the next five years, and the United States pushes (in the free-trade talks) to double its corn exports to Mexico, over half a million farmers will leave rural areas in Mexico and, as they are unable to locate other employment in Mexico, will eventually travel into the United States in search of work. Restrictive laws, such as the U.S. Government's 1986 "employer sanctions" legislation, will not reduce the flow of migrant workers. While it has now been illegal to hire undocumented workers in the U.S. for over four years, Border Patrol arrests along the U.S.-Mexico border in 1991 were 12% higher than the previous year. The "employer sanctions" law has not forced Mexican workers to leave the United States — it has only forced them deeper underground into less regulated and more exploitative jobs.

False expectations should not be created that a free trade agreement will result in Mexico exporting goods rather than people. Migration will increase, and a free trade agreement should deal directly with this reality.

The legal and human rights circumstances of migrants in North America

The reality of the circumstances of migrant workers in North America at present is as follows:

1. Few United States workers travel to Mexico or Canada in search of jobs. The U.S. recession may cause a greater number of workers to seek employment in Canada. U.S. workers who travel to Mexico or Canada do not experience any measurable violations of their civil or human rights.
2. Some Canadian workers migrate to United States in search of employment. The United States Government largely ignores their presence, does little to block their illegal entry, and even less to capture them in the U.S. These workers generally do not face any measurable violation of their rights in the United States.
3. Mexican workers migrate to the United States in significant numbers, both as temporary and permanent residents. Because of highly restrictive U.S. laws, which create long waiting lists (quotas) for most family-based immigration, and make employment-based visas almost impossible to obtain for un-

THE IMMIGRATION LAW BULLETIN

skilled workers, most enter the U.S. without documents. These workers face severe violations of their civil and human rights in the United States. In our experience representing thousands of these workers, approximately 25% are paid below the legal minimum wage (as compared to about 6% of U.S. workers), they are regularly penalized (including arrests and deportation) for engaging in union activities to improve working conditions, over 35% work under conditions which violate health and safety laws (including farm workers constantly exposed to dangerous chemical pesticides), women are often subject to sexual abuse, and instances of physical beatings and other anti-Mexican "hate crimes" are on the rise. In addition, health care, other than in "emergency" situations, is largely unavailable (unless the worker can afford the high cost of such care, which is rare), disability and workers compensation benefits for injuries suffered on the job are largely unavailable under federal and state laws, and old-age social security payments are regularly withheld or unclaimed through complex regulations and bureaucratic red-tape. Finally, violence by the U.S. Immigration and Naturalization Service (INS) and Border Patrol against unarmed Mexican nationals is constantly increasing resulting in uncompensated injuries and deaths. The U.S. Government has done virtually nothing to curb these violations of human rights. Its policies have essentially invited these violations. Laws provide no protection against those accused of human rights violations reporting their victim's presence to the INS, and the INS is quick to arrest and deport victims long before justice or proper remedies can be achieved.

In 1982, I argued the case of *Doe v. Phylar* before the United States Supreme Court. In that case, involving whether undocumented children could be automatically excluded from the public schools, the Supreme Court agreed, by only one vote, that undocumented immigrants were "persons" within the meaning of the United States Constitution and therefore entitled to the Constitutional protections of equal protection and due process of law. Today, the majority of justices on the U.S. Supreme Court would disagree. In November 1991 I argued the case of *National Center for Immigrants Rights v. INS* in the Supreme Court. The Court quickly decided that the INS could prohibit people from working after their arrest and before a finding that they are deportable. Today and for the next decade, the courts will provide sparse protection to foreign workers whose fundamental human rights are violated in the United States.

In summary, the experiences of Mexican workers in the United States strongly suggest the need for international protections and remedies against violations of fundamental human rights. Such protections are not now available under the domestic laws of the United States nor are remedies realistically available in the judicial branch.

A multilateral agreement should establish a legal basis for migration and protections for all migrant workers, whether legally or illegally present in a territory

It makes little sense for contiguous countries to address the movement of capital and goods without also addressing the movement of people and workers. The only reason to ignore the movement of workers would be to perpetuate the present situation under which large numbers of undocumented migrants from Mexico are subjected to exploitative and unregulated employment relationships in the United States-- a model of laissez faire capitalism targeted against a vulnerable foreign group. This situation should be intolerable to the Government of those exploited (Mexico), to those actually exploited (Mexican workers in the U.S.), and to the domestic U.S. workers and socially aware employers who must compete in a marketplace of underground, unregulated and exploitative employment relationships.

Two fundamental approaches may be adopted within the context of North American integration. Both should be achieved through multilateral talks including not only the concerned Governments, but also representatives of the businesses, unions, workers' organizations and communities impacted by economic integration.

First, the immigration laws of all countries (particularly the United States) must be amended to far better reflect the realities of the pressures for migration in North America. As long as the U.S. maintains highly restrictive laws which only permit a few thousand people to lawfully enter the U.S. each year from Mexico, thousands more will enter illegally. The notion that small countries with little pressure for migration to the U.S. (like Bermuda or Belize) have as many immigration slots available as Mexico is absurd. People seeking to reunite with their families or work to survive will not remain in Mexico on ten-year waiting lists to obtain visas to come to the United States. By enacting laws which more realistically reflect the economic situation in North America, as well as historical migration patterns, the U.S. Government can quickly convert illegal migration into legal migration.

This approach clearly involves increasing legal migration opportunities, and some will argue that the U.S. public's anti-immigrant sentiment would not permit such an increase. There are several responses to this claim. First, the U.S. public's anti-immigrant sentiment comes largely from anti-immigrant pronouncements of U.S. political leaders. When those statements change, the public's perceptions will change. Second, the public would generally not oppose the notion of replacing illegal migration.

"Free Trade"...Continued from page 5

with legal migration. Third, educational programs can increase public understanding that North American integration means a greater movement of capital, goods and people. In the final analysis, hardly anyone in the U.S. public could even reasonably guess at the number of visas available annually to Mexico, or the number of Mexican nationals entering the U.S. illegally. Illegal entrants are in the public mind only because politicians and the media focus on the "tide" of "illegal aliens." The number of visas made available to Mexican nationals annually could be doubled and the American public would be just as unable to reasonably guess at what the number actually is.

Second, through a multilateral instrument agreement must be reached on the content of the rights which will be enjoyed by foreign workers in North America. These rights should ideally not be limited to workers from the contiguous North American countries, but should apply equally to all foreign workers present in Canada, the U.S. and Mexico. International law already provides guidance on the content of the rights which should be guaranteed in a multilateral agreement. See, e.g., U.N. Charter art. 55, para (a); American Convention on Human Rights, art. 16; International Covenant on Civil and Political Rights, art. 22; International Covenant on Economic, Social and Cultural Rights, art. 6-8; European Social Charter, Part I, ¶¶ 1-4, part II arts. 1-6; European Convention for the Protection of Human Rights and Fundamental Freedoms, art. 11; Universal Declaration of Human Rights, arts. 23, 24; American Declaration of the Rights and Duties of Man, arts. XIV, XV, XVIII, XXII; International Convention on the Protection of the Rights of Migrant Workers, arts. 8-22; and the Social Security of Migrant Workers: Regulation No. 1408/71 of the Council of the European Economic Communities (of June 14, 1971).

Without describing all of the fundamental rights which should be protected in a multilateral agreement on the rights of migrant workers in the context of North American economic integration, the following appear to be of primary significance:

The fundamental rights of all migrants and their families

1. Equal protection and due process in the application of the fundamental rights described below regardless of immigration status or length of residence in a country.
2. The right to life and freedom from physical abuse, torture, cruel or degrading treatment or punishment.
3. The right to freedom of thought, expression, association, conscience and religion.
4. The right to privacy.

5. The right to participate in elections without having to return to one's home country (absentee voting).

6. The right to obtain and hold property and not to have one's property seized or confiscated except in circumstances under which a native person's property could be seized or confiscated and then only in conformity with due process and equal protection of the laws.

7. The right to liberty, security and against unreasonable searches and seizures in the same manner as such rights are possessed by natives of the country in which the migrant is present.

8. The right to due process of law and treatment in all judicial proceedings, whether civil or criminal in nature, equal to treatment provided to natives of the country's judicial system.

9. The right to full and equal protection of all labor laws, disability laws, workers compensation laws, social security laws and laws for the provision of essential health care.

10. The right to due process and equal protection of the laws in all matters relating to expulsion, deportation, exclusion, political asylum and naturalization.

A regional system for the redress and adjudication of rights

Finally, a North American system of integration should develop a mechanism to address disputes and alleged violations of multilateral agreements that reaches beyond the domestic courts of participating countries. The agreements reached should make clear that they are "self-executing" to enhance judicial manageability and so that they can be enforced in domestic courts. They should also make clear that private individuals as well as Governments possess the power to enforce the substantive rights guaranteed in the multilateral agreements reached. The procedures outlined should make clear that they apply equally to all workers regardless of lawful or unlawful status in the host country.

It would not be inappropriate to require exhaustion of domestic remedies before a complainant turned to the specialized bodies established under this proposal. However, such exhaustion should be liberally excused when resort to the host nation's domestic courts would be futile or otherwise would result in irreparable injury to the complaining party.

The specialized bodies contemplated may include a North American Human Rights Commission and a North American Human Rights Court. Alternatively, the Governments may agree to permit the Inter-American Commission on Human Rights and the Inter-American Court of the Organization of American States to function in these capacities. However, those bodies already are faced with more petitions than

they can adequately adjudicate and could not reasonably be expected to handle additional petitions without a significant infusion of resources. A North American Human Rights Commission may include nine Commissioners, three from each country, with no more than two being Government employees. Decisions would be based upon a majority vote. Similarly, a North American Human Rights Court may include nine members, three from each country, with no more than two being Government employees. Decisions would be based upon a majority vote. The Court would only hear cases after they were initially reviewed by the Commission, and special rules of jurisdiction could apply to limit the number of disputes the Court would be required to adjudicate.

Each country would undertake to be bound by the decisions of the Commission, subject to appeal to the Court, and to adopt and implement the final decisions of the Commission and the Court. In order to preserve the independence of the judicial branches in the respective countries, it could be agreed that the decisions of the Commission and the Court would not serve as formal precedents (*stare decisis*) in the domestic courts of the participating countries.

All persons appearing before the Commission and the Court should be entitled to counsel at their own expense, or, if they were unable to retain counsel, at expense to the Commission or the Court.

The articles of the Commission and the Court should authorize these bodies to issue injunctions requiring private parties or Governments to conform their conduct to the terms of the injunctions, or to award just compensation to injured parties in proper cases. Compensation should not be limited to pecuniary damages. The participating countries should be bound to use their judicial and executive branches to enforce the judgments of the proposed Commission and Court.

Conclusion

A North American "free trade" agreement cannot evolve without taking into account the movement of people and what rights they will possess as they move into contiguous countries. Unless these questions are taken as seriously as the movement of capital and goods, there may be no free trade agreement because broad sectors of the public, including trade unions, religious bodies, community-based groups, ethnic populations, and minorities, will oppose whatever proposals are developed. The concepts of "legal migration" (rather than "illegal migration") and "human rights" are likely more popular than the concept of "free trade." For twenty years the United States Congress was unable to enact an "employer sanctions" law until it finally also enacted an "amnesty" law. "Free trade" is fundamentally viewed as a *pro-business, anti-worker* program, and will not re-

ceive broad public support until the debate clearly includes, as it should, the "people" issues of legal migration and human rights.

APPENDIX 5.—WASHINGTON POST ARTICLE, "CHALLENGE AT INS: KEEPING VIGIL BY AN OPEN DOOR," DATED SEPTEMBER 30, 1993

Challenge at INS: Keeping Vigil By an Open Door

By Roberto Sum
Special to The Washington Post

Early last summer President Clinton was exasperated that immigration was forcing its way onto his agenda—before he was ready to focus on the issue.

At a meeting of Cabinet members and other domestic policy officials, Clinton worried aloud that given the World Trade Center bombing, the boatloads of Chinese asylum-seekers and a mounting backlash against illegal immigration in California, the administration needed to react.

As one official there recalls, Clinton concluded by saying, "Let's get started."

One step was to select Doris Meissner, director of the immigration policy program at the Carnegie Endowment for International Peace, as the nominee to head the Immigration and Naturalization Service.

Another was for Vice President Gore to hold meetings with executive branch officials and members of Congress to help shape an initiative. Meissner emerged as an influential voice in crafting an approach to immigration policy even though she was a new face.

From the start she argued that the government should not respond to the crises of the moment through law enforcement without making a commitment to ongoing immigration, participants in the meetings said.

It is a view that Meissner, 51, has articulated in different ways for nearly two decades as a federal official and policy analyst.

And it was her words that the vice president used when the White House proposed a package of initiatives to attack immigrant-smuggling, asylum fraud and illegal immigration. Speaking at a White House briefing July 27, Gore quoted Meissner. "She said not long ago, 'We want to stop illegal immigration so that we can continue opening our country to legal immigration.'"

When Meissner appears before the Senate Judiciary Committee today, the toughest questions are likely to focus on how the administration plans to close the doors to some immigrants while keeping them open to others.

Her answers are not likely to be short or simple.

Meissner resists easy categorization as either pro-immigration or restrictionist. She is well-known as a pragmatist. She is also committed to the idea that domestic security and political realities require effective limits on immigration so the United States can continue its tradition of humane immigration including family reunification and political asylum.

She is unlikely to encounter much flak on ideological grounds.

"Most everyone on the committee knows and respects Doris because she's been here so often as an expert witness," said a senior committee staffer. "The senators will ask her what she intends to do once she's in charge and they'll put down markers of their own, but it should be more like an oversight hearing than a confirmation."

Meissner declined to be interviewed prior to confirmation. But in interviews, Capitol Hill testimony and extensive writings she has taken specific stands on policy issues and articulated a definite approach to immigration.

One of the first disputes she's likely to step into

PLAYERS



DORIS MEISSNER

INS commissioner-designate

EDUCATION

University of Wisconsin, BA 1963; MA 1969

CAREER HIGHLIGHTS

Executive director, National Women's Political Caucus 1971-1973; White House Fellow, 1973-74; deputy associate attorney general 1977-80; INS acting commissioner 1981; executive associate commissioner 1982-1985; immigration policy program director, Carnegie Endowment for International Peace, 1986-1993.

PERSONAL

Married, two children.

should she be confirmed involves the proposed North American Free Trade Agreement (NAFTA) and its effect on immigration from Mexico. Her position will not provide easy fodder for those on either side of the issue.

Over the past year she has repeatedly argued that even if NAFTA meets its goals of promoting economic development in Mexico, it could actually increase the flow of illegal immigration for up to 20 years.

"This is because development is inherently a revolutionary process," she argued in a 1992 essay. As agrarian economies industrialize, she noted, "large numbers of people move to urban settings within their own countries. Some share of that internal movement inevitably crosses borders and becomes part of the international flow."

Free trade, she told Congress, will eventually reduce immigration from Mexico if wages and working conditions there improve, but not if it simply creates a "permanent low-wage mecca." And in a report to the Trilateral Commission this year she concluded, "NAFTA embodies the classic problem of short-term pain and long-term gain that is politically very difficult to accomplish but that must become part of nations' outlooks and planning to counteract mounting migration pressure."

Another perennial immigration controversy—that of a federally issued identity card—is likely to resurface with health care reform. The card has been proposed as a way for employers to verify job applicants' immigration status, but has always been rejected as potentially infringing on civil liberties.

As early as 1990 Meissner urged the government to confront the civil liberties issue because eventually it would have to consider "a tamper-proof, photo social security card" as "the best mechanism" to enforce the 1986 ban on employing illegal aliens. Moreover, she has argued,

an identity card would help end discrimination by employers who say they do not want to risk violating the law.

Meissner has said little on the record about several administrative headaches she could face early on: alleged abuse by the Border Patrol and immigration detention centers, a backlog of asylum cases and future expansion of an agency often criticized for mismanagement.

Born in Milwaukee on Nov. 3, 1941, to German immigrants, Meissner grew up aware of immigration's promise and ethnic discrimination. In 1971 she came to Washington to work as executive director of the newly founded National Women's Political Caucus.

In 1973 she became a White House Fellow and was assigned to the Justice Department. There she stumbled into a career in immigration when in 1975 she became a top staffer for a Cabinet committee studying ways to control illegal immigration. In 1981 she became acting commissioner of the immigration service and then executive associate commissioner from 1982 to 1985.

In 1986 she joined the Carnegie Endowment, where she developed a global perspective on immigration policy. She has argued that just as "the right to leave" was one of the fundamental freedoms that the West fought for in the Cold War, the United States should now adopt "the right to stay" as a major principle of its foreign policy.

"Most international migration today is an act of desperation, not choice," she said in Hill testimony last year. Her isolation, outlined in a Foreign Policy magazine article, is "unwavering attention to strengthening respect for human rights, supporting economic policies that emphasize jobs and better living standards, and preventing conflicts that spawn destabilizing migrations."

Robert Suro is a fellow of the Alicia Patterson Foundation on assignment for The Washington Post.

APPENDIX 6.—EXCERPTS FROM TEXT OF IMMIGRATION PROVISIONS
IN NAFTA AND IN THE PROPOSED IMPLEMENTING LEGISLATION



THE NAFTA



VOLUME I

Chapter Sixteen

*** Temporary Entry for Business Persons**

Article 1601: General Principles

Further to Article 102 (Objectives), this Chapter reflects the preferential trading relationship between the Parties, the desirability of facilitating temporary entry on a reciprocal basis and of establishing transparent criteria and procedures for temporary entry, and the need to ensure border security and to protect the domestic labor force and permanent employment in their respective territories.

Article 1602: General Obligations

1. Each Party shall apply its measures relating to the provisions of this Chapter in accordance with Article 1601 and, in particular, shall apply expeditiously those measures so as to avoid unduly impairing or delaying trade in goods or services or conduct of investment activities under this Agreement.
2. The Parties shall endeavor to develop and adopt common criteria, definitions and interpretations for the implementation of this Chapter.

Article 1603: Grant of Temporary Entry

1. Each Party shall grant temporary entry to business persons who are otherwise qualified for entry under applicable measures relating to public health and safety and national security, in accordance with this Chapter, including the provisions of Annex 1603.
2. A Party may refuse to issue an immigration document authorizing employment to a business person where the temporary entry of that person might affect adversely:
 - (a) the settlement of any labor dispute that is in progress at the place or intended place of employment; or
 - (b) the employment of any person who is involved in such dispute.
3. When a Party refuses pursuant to paragraph 2 to issue an immigration document authorizing employment, it shall:

- (a) inform in writing the business person of the reasons for the refusal; and
 - (b) promptly notify in writing the Party whose business person has been refused entry of the reasons for the refusal.
4. Each Party shall limit any fees for processing applications for temporary entry of business persons to the approximate cost of services rendered.

Article 1604: Provision of Information

1. Further to Article 1802 (Publication), each Party shall:
 - (a) provide to the other Parties such materials as will enable them to become acquainted with its measures relating to this Chapter; and
 - (b) no later than one year after the date of entry into force of this Agreement, prepare, publish and make available in its own territory, and in the territories of the other Parties, explanatory material in a consolidated document regarding the requirements for temporary entry under this Chapter in such a manner as will enable business persons of the other Parties to become acquainted with them.
2. Subject to Annex 1604.2, each Party shall collect and maintain, and make available to the other Parties in accordance with its domestic law, data respecting the granting of temporary entry under this Chapter to business persons of the other Parties who have been issued immigration documentation, including data specific to each occupation, profession or activity.

Article 1605: Working Group

1. The Parties hereby establish a Temporary Entry Working Group, comprising representatives of each Party, including immigration officials.
2. The Working Group shall meet at least once each year to consider:
 - (a) the implementation and administration of this Chapter;
 - (b) the development of measures to further facilitate temporary entry of business persons on a reciprocal basis;

- (c) the waiving of labor certification tests or procedures of similar effect for spouses of business persons who have been granted temporary entry for more than one year under Section B, C or D of Annex 1603; and
- (d) proposed modifications of or additions to this Chapter.

Article 1606: Dispute Settlement

1. A Party may not initiate proceedings under Article 2007 (Commission - Good Offices, Conciliation and Mediation) regarding a refusal to grant temporary entry under this Chapter or a particular case arising under Article 1602(1) unless:

- (a) the matter involves a pattern of practice; and
- (b) the business person has exhausted the available administrative remedies regarding the particular matter.

2. The remedies referred to in paragraph (1)(b) shall be deemed to be exhausted if a final determination in the matter has not been issued by the competent authority within one year of the institution of an administrative proceeding, and the failure to issue a determination is not attributable to delay caused by the business person.

Article 1607: Relation to Other Chapters

Except for this Chapter, Chapters One (Objectives), Two (General Definitions), Twenty (Institutional Arrangements and Dispute Settlement Procedures) and Twenty-Two (Final Provisions) and Articles 1801 (Contact Points), 1802 (Publication), 1803 (Notification and Provision of Information) and 1804 (Administrative Proceedings), no provision of this Agreement shall impose any obligation on a Party regarding its immigration measures.

Article 1608: Definitions

For purposes of this Chapter:

business person means a citizen of a Party who is engaged in trade in goods, the provision of services or the conduct of investment activities;

citizen means "citizen" as defined in Annex 1608 for the Parties specified in that Annex;

existing means "existing" as defined in Annex 1608 for the Parties specified in that Annex; and

temporary entry means entry into the territory of a Party by a business person of another Party without the intent to establish permanent residence.

Annex 1603**Temporary Entry for Business Persons****Section A - Business Visitors**

1. Each Party shall grant temporary entry to a business person seeking to engage in a business activity set out in Appendix 1603.A.1, without requiring that person to obtain an employment authorization, provided that the business person otherwise complies with existing immigration measures applicable to temporary entry, on presentation of:

- (a) proof of citizenship of a Party;
- (b) documentation demonstrating that the business person will be so engaged and describing the purpose of entry; and
- (c) evidence demonstrating that the proposed business activity is international in scope and that the business person is not seeking to enter the local labor market.

2. Each Party shall provide that a business person may satisfy the requirements of paragraph 1(c) by demonstrating that:

- (a) the primary source of remuneration for the proposed business activity is outside the territory of the Party granting temporary entry; and
- (b) the business person's principal place of business and the actual place of accrual of profits, at least predominantly, remain outside such territory.

A Party shall normally accept an oral declaration as to the principal place of business and the actual place of accrual of profits. Where the Party requires further proof, it shall normally consider a letter from the employer attesting to these matters as sufficient proof.

3. Each Party shall grant temporary entry to a business person seeking to engage in a business activity other than those set out in Appendix 1603.A.1, without requiring that person to obtain an employment authorization, on a basis no less favorable than that provided under the existing provisions of the measures set out in Appendix 1603.A.3, provided that the business person otherwise complies with existing immigration measures applicable to temporary entry.

4. No Party may:

- (a) as a condition for temporary entry under paragraph 1 or 3, require prior approval procedures, petitions, labor certification tests or other procedures of similar effect; or
- (b) impose or maintain any numerical restriction relating to temporary entry under paragraph 1 or 3.

5. Notwithstanding paragraph 4, a Party may require a business person seeking temporary entry under this Section to obtain a visa or its equivalent prior to entry. Before imposing a visa requirement, the Party shall consult with a Party whose business persons would be affected with a view to avoiding the imposition of the requirement. With respect to an existing visa requirement, a Party shall consult, on request, with a Party whose business persons are subject to the requirement with a view to its removal.

Section B - Traders and Investors

1. Each Party shall grant temporary entry and provide confirming documentation to a business person seeking to:

- (a) carry on substantial trade in goods or services principally between the territory of the Party of which the business person is a citizen and the territory of the Party into which entry is sought, or
- (b) establish, develop, administer or provide advice or key technical services to the operation of an investment to which the business person or the business person's enterprise has committed, or is in the process of committing, a substantial amount of capital,

in a capacity that is supervisory, executive or involves essential skills, provided that the business person otherwise complies with existing immigration measures applicable to temporary entry.

2. No Party may:

- (a) as a condition for temporary entry under paragraph 1, require labor certification tests or other procedures of similar effect; or

- (b) impose or maintain any numerical restriction relating to temporary entry under paragraph 1.

3. Notwithstanding paragraph 2, a Party may require a business person seeking temporary entry under this Section to obtain a visa or its equivalent prior to entry.

Section C - Intra-Company Transferees

1. Each Party shall grant temporary entry and provide confirming documentation to a business person employed by an enterprise who seeks to render services to that enterprise or a subsidiary or affiliate thereof, in a capacity that is managerial, executive or involves specialized knowledge, provided that the business person otherwise complies with existing immigration measures applicable to temporary entry. A Party may require the business person to have been employed continuously by the enterprise for one year within the three-year period immediately preceding the date of the application for admission.

2. No Party may:

- (a) as a condition for temporary entry under paragraph 1, require labor certification tests or other procedures of similar effect; or
- (b) impose or maintain any numerical restriction relating to temporary entry under paragraph 1.

3. Notwithstanding paragraph 2, a Party may require a business person seeking temporary entry under this Section to obtain a visa or its equivalent prior to entry. Before imposing a visa requirement, the Party shall consult with a Party whose business persons would be affected with a view to avoiding the imposition of the requirement. With respect to an existing visa requirement, a Party shall consult, on request, with a Party whose business persons are subject to the requirement with a view to its removal.

Section D - Professionals

1. Each Party shall grant temporary entry and provide confirming documentation to a business person seeking to engage in a business activity at a professional level in a profession set out in Appendix 1603.D.1, if the business person otherwise complies with existing immigration measures applicable to temporary entry, on presentation of:

- (a) proof of citizenship of a Party; and
- (b) documentation demonstrating that the business person will be so engaged and describing the purpose of entry.

2. No Party may:

- (a) as a condition for temporary entry under paragraph 1, require prior approval procedures, petitions, labor certification tests or other procedures of similar effect; or
- (b) impose or maintain any numerical restriction relating to temporary entry under paragraph 1.

3. Notwithstanding paragraph 2, a Party may require a business person seeking temporary entry under this Section to obtain a visa or its equivalent prior to entry. Before imposing a visa requirement, the Party shall consult with a Party whose business persons would be affected with a view to avoiding the imposition of the requirement. With respect to an existing visa requirement, a Party shall consult, on request, with a Party whose business persons are subject to the requirement with a view to its removal.

4. Notwithstanding paragraphs 1 and 2, a Party may establish an annual numerical limit, which shall be set out in Appendix 1603.D.4, regarding temporary entry of business persons of another Party seeking to engage in business activities at a professional level in a profession set out in Appendix 1603.D.1, if the Parties concerned have not agreed otherwise prior to the date of entry into force of this Agreement for those Parties. In establishing such a limit, the Party shall consult with the other Party concerned.

5. A Party establishing a numerical limit pursuant to paragraph 4, unless the Parties concerned agree otherwise:

- (a) shall, for each year after the first year after the date of entry into force of this Agreement, consider increasing the numerical limit set out in Appendix 1603.D.4 by an amount to be established in consultation with the other Party concerned, taking into account the demand for temporary entry under this Section;
- (b) shall not apply its procedures established pursuant to paragraph 1 to the temporary entry of a business person subject to the numerical limit, but

may require the business person to comply with its other procedures applicable to the temporary entry of professionals; and

- (c) may, in consultation with the other Party concerned, grant temporary entry under paragraph 1 to a business person who practices in a profession where accreditation, licensing, and certification requirements are mutually recognized by those Parties.

6. Nothing in paragraph 4 or 5 shall be construed to limit the ability of a business person to seek temporary entry under a Party's applicable immigration measures relating to the entry of professionals other than those adopted or maintained pursuant to paragraph 1.

7. Three years after a Party establishes a numerical limit pursuant to paragraph 4, it shall consult with the other Party concerned with a view to determining a date after which the limit shall cease to apply.

Appendix 1603.A.1**Business Visitors****Research and Design**

- Technical, scientific and statistical researchers conducting independent research or research for an enterprise located in the territory of another Party.

Growth, Manufacture and Production

- Harvester owner supervising a harvesting crew admitted under applicable law.
- Purchasing and production management personnel conducting commercial transactions for an enterprise located in the territory of another Party.

Marketing

- Market researchers and analysts conducting independent research or analysis or research or analysis for an enterprise located in the territory of another Party.
- Trade fair and promotional personnel attending a trade convention.

Sales

- Sales representatives and agents taking orders or negotiating contracts for goods or services for an enterprise located in the territory of another Party but not delivering goods or providing services.
- Buyers purchasing for an enterprise located in the territory of another Party.

Distribution

- Transportation operators transporting goods or passengers to the territory of a Party from the territory of another Party or loading and transporting goods or

passengers from the territory of a Party, with no unloading in that territory, to the territory of another Party.

- With respect to temporary entry into the territory of the United States, Canadian customs brokers performing brokerage duties relating to the export of goods from the territory of the United States to or through the territory of Canada.
- With respect to temporary entry into the territory of Canada, United States customs brokers performing brokerage duties relating to the export of goods from the territory of Canada to or through the territory of the United States.
- Customs brokers providing consulting services regarding the facilitation of the import or export of goods.

After-Sales Service

- Installers, repair and maintenance personnel, and supervisors, possessing specialized knowledge essential to a seller's contractual obligation, performing services or training workers to perform services, pursuant to a warranty or other service contract incidental to the sale of commercial or industrial equipment or machinery, including computer software, purchased from an enterprise located outside the territory of the Party into which temporary entry is sought, during the life of the warranty or service agreement.

General Service

- Professionals engaging in a business activity at a professional level in a profession set out in Appendix 1603.D.1.
- Management and supervisory personnel engaging in a commercial transaction for an enterprise located in the territory of another Party.
- Financial services personnel (insurers, bankers or investment brokers) engaging in commercial transactions for an enterprise located in the territory of another Party.
- Public relations and advertising personnel consulting with business associates, or attending or participating in conventions.

- Tourism personnel (tour and travel agents, tour guides or tour operators) attending or participating in conventions or conducting a tour that has begun in the territory of another Party.
- Tour bus operators entering the territory of a Party:
 - (a) with a group of passengers on a bus tour that has begun in, and will return to, the territory of another Party;
 - (b) to meet a group of passengers on a bus tour that will end, and the predominant portion of which will take place, in the territory of another Party; or
 - (c) with a group of passengers on a bus tour to be unloaded in the territory of the Party into which temporary entry is sought, and returning with no passengers or reloading with the group for transportation to the territory of another Party.
- Translators or interpreters performing services as employees of an enterprise located in the territory of another Party.

Definitions

For purposes of this Appendix:

territory of another Party means the territory of a Party other than the territory of the Party into which temporary entry is sought;

tour bus operator means a natural person, including relief personnel accompanying or following to join, necessary for the operation of a tour bus for the duration of a trip; and

transportation operator means a natural person, other than a tour bus operator, including relief personnel accompanying or following to join, necessary for the operation of a vehicle for the duration of a trip.

Appendix 1603.A.3**Existing Immigration Measures**

1. In the case of Canada, subsection 19(1) of the *Immigration Regulations, 1978*, SOR/78-172, as amended, made under the *Immigration Act*, R.S.C. 1985, c. I-2, as amended.
2. In the case of the United States, section 101(a)(15)(B) of the *Immigration and Nationality Act*, 1952, as amended.
3. In the case of Mexico, Chapter III of the *General Demography Law* ("Ley General de Poblacion"), 1974, as amended.

Appendix 1603.D.1

Professionals

PROFESSION ¹	MINIMUM EDUCATION REQUIREMENTS AND ALTERNATIVE CREDENTIALS
General	
Accountant	Baccalaureate or Licenciatura Degree; or C.P.A., C.A., C.G.A. or C.M.A.
Architect	Baccalaureate or Licenciatura Degree; or state/provincial license ²
Computer Systems Analyst	Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma ³ or Post-Secondary Certificate ⁴ , and three years experience
Disaster Relief Insurance Claims Adjuster (claims adjuster employed by an insurance company located in the territory of a Party, or an independent claims adjuster)	Baccalaureate or Licenciatura Degree, and successful completion of training in the appropriate areas of insurance adjustment pertaining to disaster relief claims; or three years experience in claims adjustment and successful completion of training in the appropriate areas of insurance adjustment pertaining to disaster relief claims
Economist	Baccalaureate or Licenciatura Degree
Engineer	Baccalaureate or Licenciatura Degree; or state/provincial license

¹ A business person seeking temporary entry under this Appendix may also perform training functions relating to the profession, including conducting seminars.

² "State/provincial license" and "state/provincial/federal license" mean any document issued by a state, provincial or federal government, as the case may be, or under its authority, but not by a local government, that permits a person to engage in a regulated activity or profession.

³ "Post-Secondary Diploma" means a credential issued, on completion of two or more years of post-secondary education, by an accredited academic institution in Canada or the United States.

⁴ "Post-Secondary Certificate" means a certificate issued, on completion of two or more years of post-secondary education at an academic institution, by the federal government of Mexico or a state government in Mexico, an academic institution recognized by the federal government or a state government, or an academic institution created by federal or state law.

Forester	Baccalaureate or Licenciatura Degree; or state/provincial license
Graphic Designer	Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate, and three years experience
Hotel Manager	Baccalaureate or Licenciatura Degree in hotel/restaurant management; or Post-Secondary Diploma or Post-Secondary Certificate in hotel/restaurant management, and three years experience in hotel/restaurant management
Industrial Designer	Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate, and three years experience
Interior Designer	Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate, and three years experience
Land Surveyor	Baccalaureate or Licenciatura Degree; or state/provincial/federal license
Landscape Architect	Baccalaureate or Licenciatura Degree
Lawyer (including Notary in the Province of Quebec)	LL.B., J.D., LL.L., B.C.L. or Licenciatura Degree (five years); or membership in a state/provincial bar
Librarian	M.L.S. or B.L.S. (for which another Baccalaureate or Licenciatura Degree was a prerequisite)
Management Consultant	Baccalaureate or Licenciatura Degree; or equivalent professional experience as established by statement or professional credential attesting to five years experience as a management consultant, or five years experience in a field of specialty related to the consulting agreement
Mathematician (including Statistician)	Baccalaureate or Licenciatura Degree
Range Manager/ Range Conservationist	Baccalaureate or Licenciatura Degree
Research Assistant (working in a post-secondary educational institution)	Baccalaureate or Licenciatura Degree

Scientific Technician/Technologist ¹	Possession of (a) theoretical knowledge of any of the following disciplines: agricultural sciences, astronomy, biology, chemistry, engineering, forestry, geology, geophysics, meteorology or physics; and (b) the ability to solve practical problems in any of those disciplines, or the ability to apply principles of any of those disciplines to basic or applied research
Social Worker	Baccalaureate or Licenciatura Degree
Sylviculturist (including Forestry Specialist)	Baccalaureate or Licenciatura Degree
Technical Publications Writer	Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate, and three years experience
Urban Planner (including Geographer)	Baccalaureate or Licenciatura Degree
Vocational Counsellor	Baccalaureate or Licenciatura Degree
Medical/Allied Professional	
Dentist	D.D.S., D.M.D., Doctor en Odontologia or Doctor en Cirugia Dental; or state/provincial license
Dietitian	Baccalaureate or Licenciatura Degree; or state/provincial license
Medical Laboratory Technologist (Canada)/Medical Technologist (Mexico and the United States) ²	Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate, and three years experience
Nutritionist	Baccalaureate or Licenciatura Degree
Occupational Therapist	Baccalaureate or Licenciatura Degree; or state/provincial license
Pharmacist	Baccalaureate or Licenciatura Degree; or state/provincial license

¹ A business person in this category must be seeking temporary entry to work in direct support of professionals in agricultural sciences, astronomy, biology, chemistry, engineering, forestry, geology, geophysics, meteorology or physics.

² A business person in this category must be seeking temporary entry to perform in a laboratory chemical, biological, hematological, immunologic, microscopic or bacteriological tests and analyses for diagnosis, treatment or prevention of disease.

Physician (teaching or research only)	M.D. or Doctor en Medicina; or state/provincial license
Physiotherapist/Physical Therapist	Baccalaureate or Licenciatura Degree; or state/provincial license
Psychologist	State/provincial license; or Licenciatura Degree
Recreational Therapist	Baccalaureate or Licenciatura Degree
Registered Nurse	State/provincial license; or Licenciatura Degree
Veterinarian	D.V.M., D.M.V. or Doctor en Veterinaria; or state/provincial license
Scientist	
Agriculturist (including Agronomist)	Baccalaureate or Licenciatura Degree
Animal Breeder	Baccalaureate or Licenciatura Degree
Animal Scientist	Baccalaureate or Licenciatura Degree
Apiculturist	Baccalaureate or Licenciatura Degree
Astronomer	Baccalaureate or Licenciatura Degree
Biochemist	Baccalaureate or Licenciatura Degree
Biologist	Baccalaureate or Licenciatura Degree
Chemist	Baccalaureate or Licenciatura Degree
Dairy Scientist	Baccalaureate or Licenciatura Degree
Entomologist	Baccalaureate or Licenciatura Degree
Epidemiologist	Baccalaureate or Licenciatura Degree
Geneticist	Baccalaureate or Licenciatura Degree
Geologist	Baccalaureate or Licenciatura Degree
Geochemist	Baccalaureate or Licenciatura Degree
Geophysicist (including Oceanographer in Mexico and the United States)	Baccalaureate or Licenciatura Degree
Horticulturist	Baccalaureate or Licenciatura Degree
Meteorologist	Baccalaureate or Licenciatura Degree

Pharmacologist	Baccalaureate or Licenciatura Degree
Physicist (including Oceanographer in Canada)	Baccalaureate or Licenciatura Degree
Plant Breeder	Baccalaureate or Licenciatura Degree
Poultry Scientist	Baccalaureate or Licenciatura Degree
Soil Scientist	Baccalaureate or Licenciatura Degree
Zoologist	Baccalaureate or Licenciatura Degree
Teacher	
College	Baccalaureate or Licenciatura Degree
Seminary	Baccalaureate or Licenciatura Degree
University	Baccalaureate or Licenciatura Degree

Appendix 1603.D.4

United States

1. Beginning on the date of entry into force of this Agreement as between the United States and Mexico, the United States shall annually approve as many ~~as 100 visas~~ ~~petitions of business persons~~ of Mexico seeking temporary entry under Section D of Annex 1603 to engage in a business activity at a professional level in a profession set out in Appendix 1603.D.1.
2. For purposes of paragraph 1, the United States shall not take into account:
 - (a) the renewal of a period of temporary entry;
 - (b) the entry of a spouse or children accompanying or following to join the principal business person;
 - (c) an admission under section 101(a)(15)(H)(i)(b) of the *Immigration and Nationality Act*, 1952, as may be amended, including the worldwide numerical limit established by section 214(g)(1)(A) of that Act; or
 - (d) an admission under any other provision of section 101(a)(15) of that Act relating to the entry of professionals.
3. Paragraphs 4 and 5 of Section D of Annex 1603 shall apply as between the United States and Mexico for no longer than:
 - (a) the period that such paragraphs or similar provisions may apply as between the United States and any other Party other than Canada or any non-Party; or
 - (b) 10 years after the date of entry into force of this Agreement as between such Parties,whichever period is shorter.

(b) NONIMMIGRANT PROFESSIONALS AND ANNUAL NUMERICAL LIMIT.—
 Section 214 of the Immigration and Nationality Act (8 U.S.C.
 1184) is amended by redesignating subsection (e) as paragraph (1)
 of subsection (a) and adding the following new paragraphs:

"(2) A citizen of Canada or Mexico, and the spouse and
 children of any such citizen if accompanying or following to
 join such citizen, who seeks to enter the United States
 under and pursuant to the provisions of Annex 1603, Section
 D - Professionals, of the North American Free Trade
 Agreement to engage in business activities at a professional
 level as provided for therein may be admitted for such
 purpose under regulations of the Attorney General
 promulgated after consultation with the Secretaries of State
 and Labor. For purposes of this Act, including the issuance
 of entry documents and the application of section 214(b),
 such citizen shall be treated as if seeking classification,
 or classifiable, ~~considered to be classifiable~~ as a
 nonimmigrant under section 101(a)(15). The admission of a
 citizen of Mexico shall be subject to paragraphs (3), (4),
 and (5). For purposes of this paragraph and paragraphs (3),
 (4), and (5), "citizen of Mexico" means "citizen" as defined
 in Annex 1608 of the Agreement."

Sec. Temporary Entry.

(a) NONIMMIGRANT TRADERS AND INVESTORS.-- Upon a basis of reciprocity secured by the Agreement, a citizen of Canada or Mexico, and the spouse and children of any such citizen if accompanying or following to join such citizen, may, if otherwise eligible for a visa and if otherwise admissible into the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), be considered to be classifiable as a nonimmigrant under section 101(a)(15)(E) of such Act (8 U.S.C. 1101(a)(15)(E)) if entering solely for a purpose specified in Annex 1603, Section B - Traders and Investors, of the Agreement, but only if any such purpose shall have been specified in such Annex as of the date of entry into force of the Agreement. For purposes of this section, "citizen of Mexico" means "citizen" as defined in Annex 1608 of the Agreement.

(b) NONIMMIGRANT PROFESSIONALS AND ANNUAL NUMERICAL LIMIT.-- Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended by redesignating subsection (e) as paragraph (1) of subsection (e) and adding the following new paragraphs:

"(2) A citizen of Canada or Mexico, and the spouse and children of any such citizen if accompanying or following to join such citizen, who seeks to enter the United States under and pursuant to the provisions of Annex 1603, Section D - Professionals, of the North American Free Trade Agreement to engage in business activities at a professional level as provided for therein may be admitted for such purpose under regulations of the Attorney General promulgated after consultation with the Secretaries of State and Labor. For purposes of this Act, including the issuance of entry documents and the application of section 214(b), such citizen shall be treated as if seeking classification, or classifiable, as a nonimmigrant under section 101(a)(15). The admission of a citizen of Mexico shall be subject to paragraphs (3), (4), and (5). For purposes of this paragraph and paragraphs (3), (4), and (5), "citizen of Mexico" means "citizen" as defined in Annex 1608 of the Agreement.

"(3) The Attorney General shall establish an annual numerical limit on admissions under paragraph (2) of citizens of Mexico, as set forth in Annex 1603, Appendix 1603.D.4 of the North American Free Trade Agreement. Subject to paragraph (4), the annual numerical limit--

(A) beginning with the second year that the Agreement is in force, may be increased in accordance with the provisions of paragraph 5(a) of Section D - Professionals, of such Annex, and

(B) shall cease to apply as provided for in paragraph 3 of such Appendix or upon agreement of the United States and Mexico.

"(4) The annual numerical limit referred to in paragraph (3) may be increased or shall cease to apply (other than by operation of paragraph 3 of Appendix 1603.D.4) only if--

(A) the President has obtained advice regarding the proposed action from the appropriate advisory committees established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155);

(B) the President has submitted a report to the Judiciary Committee of the Senate and the Judiciary Committee of the House of Representatives that sets forth

(i) the action proposed to be taken and the reasons therefor, and

(ii) the advice obtained under paragraph (4) (A);

(C) a period of at least 60 calendar days that begins on the first day on which the President has met the requirements of paragraphs (4) (A) and (B) with respect to such action has expired; and

(D) the President has consulted with such Committees regarding the proposed action during the period referred to in paragraph (4) (C).

"(5) During the period that the provisions of Appendix 1603.D.4, Annex 1603 of the North American Free Trade Agreement apply, the entry of a citizen of Mexico under and pursuant to the provisions of Annex 1603, Section D - Professionals, of the Agreement shall be subject to the attestation requirement of section 212(m), in the case of a registered nurse, or the application requirement of section 212(n), in the case of all other professions set out in Appendix 1603.D.1, Annex 1603 of the Agreement, and the petition requirement of section 214(o), to the extent and in the manner prescribed in regulations promulgated by the Secretary of Labor, with respect to sections 212(m) and (n), and the Attorney General, with respect to section 214(c)."

(c) LABOR DISPUTES.-- Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended by adding the following new subsection:

"(o) Notwithstanding any other provision of this Act, a citizen of Canada or Mexico who seeks to enter the United



States under and pursuant to the provisions of Annex 1603, Section B - Traders and Investors, Section C - Intra-Company Transferees, or Section D - Professionals, of the North American Free Trade Agreement, shall not be classified as a nonimmigrant under such provisions if there is in progress a strike or lockout in the course of a labor dispute in the occupational classification at the place or intended place of employment, unless such citizen establishes, pursuant to regulations promulgated by the Attorney General, that the citizen's entry will not affect adversely the settlement of the strike or lockout or the employment of any person who is involved in the strike or lockout. Notice of a determination under this subsection shall be given as may be required by Article 1603:3 of the Agreement. For purposes of this subsection, "citizen of Mexico" means "citizen" as defined in Annex 1608 of the Agreement.

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